

May 15, 2007



TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Marilyn Praisner, President	Councilmember Michael Knapp, Vice-President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember George Leventhal
Councilmember Duchy Trachtenberg	



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Council President Praisner,

Good morning, ladies and gentlemen. Sorry for the delay, but traffic problems affected councilmembers as well. I know that Father Sanderfoot could not stay, so could we all please rise for a moment of silence. (Moment of silence observed) Thank you. We have two presentations this morning. The first one is a proclamation in recognition of AmeriCorps Week, Project CHANGE, which is the Montgomery County program. And I would like to ask Councilmember Floreen to do the honors. And we do have an AmeriCorps veteran here, Councilmember Andrews, to join her as well.

Councilmember Floreen,

I would like to invite the AmeriCorps team to come on up. Come up -- all of you. Yeah, that's good. Judy and John. Thank you, everybody. Squish in. I'm going to make a couple of remarks and Mr. Andrews is going to make a couple of remarks and then we have a proclamation to read for you. One of Montgomery County's treasurers, Reverend Lon Dring, had a favorite prayer that I think is so appropriate here. He said, "Let us not be like porridge, thick and sticky and hard to stir. Let us be like cornflakes, light and crisp and ready to serve." (Laughter) And that's what you folks are, aren't you? AmeriCorps' Project CHANGE is made up of wonderful people who are known to be ready to serve this County, and that's what makes this place such a wonderful community. Our residents see problems not as obstacles, but as challenges to surmount, as opportunities to advance themselves and to advance the County. Project CHANGE's partners, and I will recognize them when we read the proclamation, have joined to meet the challenges of poverty and illness and public safety in this County. And we are so grateful to you all for your efforts and dedication. So today we're here to honor AmeriCorps Week and salute your good works. There is no exercise better for the heart than reaching out and lifting people up. And that's what you are all about, and we're here to salute you. Thank you. And, Phil?

Councilmember Andrews,

Thank you, Nancy. This is one of the most rewarding things that we get to do as councilmembers, is to recognize the great work being done by others. And speaking as a former AmeriCorps Director of the program for the County government ten years ago, I want to thank all the participants -- all the members who are here today, whether you're full or part time. I'm not sure; does Project CHANGE have full and part time? You have full and part-time members? Good. They are serving their community. They are serving their country. And they are helping themselves as well, and learning a lot about the community that they're working with. So it is a pleasure just to help join in recognizing this wonderful group of people, and thank you for choosing to devote a year or more of your life to community service.

Councilmember Floreen,

And so with that, we have a proclamation. And Judy and Silas -- here you are. Come on up. And Phil and I will read this together. "AmeriCorps, often called the "Domestic Peace Corps," provides members to serve in nonprofits and public agencies across the country to help meet critical needs in education, the environment, public safety, and homeland security; and, Whereas Project CHANGE is Montgomery County's only



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AmeriCorps program; and, Whereas Project CHANGE's collaborative partners include -- and I'm not going to hold my breath for all this: Centro Familia, College Tracks, Community Bridges, the George B. Thomas Sr. Learning Academy, IMPACT Silver Spring, Linkages to Learning, Mental Health Association of Montgomery County, Montgomery Coalition for Adult English Literacy, Montgomery College, Montgomery County Public Schools, Montgomery Housing Partnership, National Alliance for the Mentally Ill, Study Circles, and the WMCA; and, Whereas Project CHANGE members serve in these organizations, enhancing the nonprofits' abilities to achieve their individual missions to target communities that include those who are highly transient, families near or below the poverty level, schools with large populations of academically-at-risk students, and non-English-speaking households, providing important services to those in need; and, Whereas Project CHANGE-AmeriCorps has 27 outstanding members serving in our community today of whom we are very proud and grateful for their community commitment. Now, therefore, be it resolved that the Montgomery County Council celebrates the exemplary accomplishments of these dedicated and committed AmeriCorps members in honor of AmeriCorps Week, May 13th through 20th, 2007. We encourage them to keep up their great work in supporting AmeriCorps' goal of getting things done for America. And we present it today, on the 15th of May, in the year 2007, signed by our fearless Council President, Marilyn Praisner. Thank you. (Applause) Would you like to say anything?

Class of 2007 Representative,
Sure.

Councilmember Floreen,
Please.

Class of 2007 Representative,
First of all, we'd like to present the County with a proclamation from the State of Maryland --

Councilmember Floreen,
We get a proclamation?

Class of 2007 Representative,
Recognizing this week as AmeriCorps Week Council.

Councilmember Floreen,
Oh, great.

Class of 2007 Representative,
And I'd like to say a few words on behalf of the class of 2007 AmeriCorps- Project CHANGE. First, we'd like to thank especially the County Council and especially Councilmember Floreen. We'd like to thank Judy Lapping, our sites, and Montgomery County for giving us this wonderful opportunity to apply our talents, passion, and



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1 commitment to help make a lasting change in our community. We appreciate your
2 support and look forward to a long-lasting relationship with the Council. Thank you.

3
4 Councilmember Andrews,
5 Thank you.

6
7 Councilmember Floreen,
8 Thank you very much. (Applause)

9
10 Councilmember Andrews,
11 We should also thank the very dedicated staff. A lot of love in addition to work goes into
12 making the AmeriCorps programs work. It's a big effort and thanks to the dedicated
13 staff.

14
15 Judy Lapping,
16 I'm the staff. (Laughter)

17
18 Councilmember Floreen,
19 Thank you, Judy. Here's your proclamation, and now we have the obligatory picture –
20 so if you could squish in a little bit. Come on in. Come on. And this will be retelevised
21 Thursday evening for those of you who want to see yourself on TV and save that video
22 for your friends and relatives.

23
24 Cameraman,
25 I need to be able to see everybody. Make sure you find a space. Now that you've found
26 a space, now smile. One more. There are a couple of other people taking pictures.
27 We're done. Thank you.

28
29 Councilmember Floreen,
30 Thank you so much. Thank you for your commitment. We're very grateful to you all.

31
32 Council President Praisner,
33 Okay. We have one more proclamation. I'd like to invite former Councilmember and
34 former Chair of the Planning Board, Derick Berlage, and Lynn Coleman up to the front.
35 Well, there are many famous people who have called Montgomery County home in all
36 the years that we've been a wonderful county; and high on that list is a woman named
37 Rachel Carson. And I'm very pleased that Rachel Carson lived most of her adult life in
38 District 4. And it's always been a great joy as I've talked and traveled around the country
39 with colleagues from other counties to be able, when we talk about environmental
40 issues, to remind them that Silent Spring was written in Montgomery County. We need
41 to tell people that more often. This is a very special year for Rachel Carson. It's the
42 100th anniversary of her birth, and it is important for us to stop in this time – when
43 environmental issues become more and more important every day – to think about
44 someone who was a leader well before our time and a leader ahead of her time as far
45 as identifying the importance of the environment and of awakening in us a recognition of
46 that importance. So I'd like to read the proclamation. Whereas Sunday, May 27th, 2007,



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is the 100th anniversary of the birth of renowned environmentalist Rachel Carson; and Whereas Rachel Carson helped make people realize we must protect nature and preserve the beauty and the integrity of the natural world; and Whereas Rachel Carson wrote extensively of her love of nature and asked that adults instill the same sense of wonder in children; and, Whereas Rachel Carson helped found the Modern Environmental Movement by writing Silent Spring, a book that warned of the dangers of indiscriminate use of pesticides and eventually led to DDT being banned in the United States; and, Whereas Rachel Carson lived most of her adult and professional life in Montgomery County and died in 1962 in her beloved home overlooking Montgomery County's Northwest Branch Stream Valley Park. Now, therefore, be it resolved that the County Council of Montgomery County, Maryland, hereby proclaims May 27th, 2007, Rachel Carson Day in Montgomery County. And be it further resolved that the County Council urges the residents of Montgomery County to honor Rachel Carson by discovering in nature a sense of wonder – not only on Rachel Carson's birthday, but every day thereafter. And it's my pleasure to have this signed by me as Council President and present it on this 15th day of May. Lynn Coleman from Park and Planning, who's played such a significant role, and Derick Berlage for your leadership on this issue as well. So if one of you – both of you --want to say something, please do.

Lynn Coleman,

I'm going to just invite all the councilmembers and the people of Montgomery County to join us for a birthday party in honor of Rachel Carson next week, May 19th and 20th. All the information is on our website. And during the moment of silence, I was praying for good weather (Laughter) because everything will be out of doors, key to nature, and free. And one of the people who has helped put together so many activities through his hard work is our Honorary Chairman of the event, Derick Berlage, who while on the Montgomery County Planning Commission, fostered us renaming the Northwest Branch Greenway to the Rachel Carson Greenway and started the annual hikes, of which this is the third year we will be doing this. So, Derick.

Derick Berlage,

Thank you, Lynn. I want to thank Lynn and her colleagues on the staff at Park and Planning and the many volunteers who are going to make this two-day celebration a rousing success. You really need to go on the Park and Planning website and read about all the events that are going to happen all over the County. It's going to be a great celebration. I never met Rachel Carson; but nonetheless, she had a real impact on my life. In 1963, I was in the third grade and my –

Councilmember Floreen,

This is on television, Derick. (Laughter)

Council President Praisner,

I have trouble with that



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1 Derick Berlage,
2 I could be off by a year or two.

3
4 Council Vice President Knapp,
5 Some of us weren't born yet.

6
7 Derick Berlage,
8 In the 1960s, when I was in the third grade, my third grade teacher had read Silent
9 Spring, which has been published a couple of years before. And she taught our class
10 about Silent Spring. And I remember her telling us about DDT and the fact that the eggs
11 of the bald eagle were deteriorating as a result of DDT, and that scientists predicted that
12 by the time we as third graders grew up and had our own children, that our children
13 would never be able to see a bald eagle except as a picture in a book. And I
14 remembered that story about five years ago when I was hiking in a conservation park
15 created by the citizens of Maryland with my daughter, who also happens to be named
16 Rachel. And she saw her first bald eagle -- and not in a book, but flying over the skies of
17 Maryland. And the message of that, of course, is that you can make a difference. A lot
18 of people eventually took Rachel Carson's ideas and her call to action to heart, and we
19 made a tremendous difference. And we want to make sure that the next generation
20 knows about her legacy and continues to make that kind of difference. So please
21 participate in the events this weekend. Thank you. (Applause)

22
23 Council President Praisner,
24 Thank you. Okay. We now move to agenda and calendar changes, General Business.
25 Madame Clerk.

26
27 Linda Lauer,
28 All right. We have no calendar changes. We did have a couple of petitions this week. All
29 four of them are supporting grant requests. One was for the George B. Thomas, Sr.
30 Learning Academy. We have the Top Banana Home Delivered Groceries, Food and
31 Friends, and the Montgomery County Coalition for the Homeless. Thank you.

32
33 Council President Praisner,
34 Great. And we now need to move to Approval of Minutes. Madame Clerk?

35
36 Council Clerk,
37 The minutes of May the 1st for approval.

38
39 Council President Praisner,
40 Is there a motion?

41
42 Councilmember Leventhal,
43 Move for approval, Madame President.

44
45 Councilmember Ervin,
46 Second.



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1 Council President Praisner,
2 Mr. Leventhal. Second by Councilmember Ervin. All in favor of approving the minutes?
3 (Show of hands) Mr. Andrews, Mr. Elrich, are you approving the minutes? It's
4 unanimous. Thank you. We now move to the Consent Calendar. We have two items on
5 the Consent Calendar. Is there a motion? Council Vice President Knapp. Second by
6 Councilmember Trachtenberg. And I see no lights. So all in favor of adoption of the
7 Consent Calendar, please indicate by raising your right hand. (Show of hands) It is
8 unanimous. Thank you. That brings us – a little late, given the traffic challenges -- to the
9 worksession on the FY08 Capital and Operating Budgets for Montgomery County Public
10 Schools. It's my hope in my conversations with the Council Vice President and Chair of
11 the Education Committee that we will be able, if we can, to move through this this
12 morning such that folks do not have to come back this afternoon. At 1:30 we have the
13 Board of Health meeting and a discussion with Dr. Tillman, and we'd have to come back
14 to the School System after that. So, if at all possible, what I've suggested to the
15 Committee Chair is that we – rather than having a presentation on each of the items,
16 that we just go page by page and see where councilmembers may be about questions,
17 and then just move that way through the packet. So let's start, Mr. Crispell, by asking
18 you and everyone at the table to introduce themselves for the benefit of the television
19 audience. Push your button, Bruce.

20
21 Bruce Crispell,
22 Bruce Crispell, Director of Division Long-Range Planning.

23
24 Larry Bowers,
25 Larry Bowers, Chief Operating Officer.

26
27 Dick Hawes,
28 Dick Hawes, Director of Facilities Management.

29
30 Council President Praisner,
31 Nancy, now you moved it. Do it on mike. I'm sorry.

32
33 Nancy Navarro,
34 Nancy Navarro, President of the Board of Education. Good morning.

35
36 Jerry Weast,
37 Jerry Weast, Superintendent of Schools.

38
39 Mary Beck
40 Mary Beck, OMB.

41
42 Charles Goldsmith,
43 Charles Goldsmith, OMB.



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Council President Praisner,

Okay. All right. The first thing is the Capital Budget, the CIP. So I know that we'll probably be joined by other school Board members. I see Shirley Brandman, Vice Chair, entering and Sharon Cox over in the corner. So welcome to all of you, and let's move to the CIP.

Council Vice President Knapp,

Thank you, Madame President. We actually have one issue to start with that is a follow-up from yesterday as it relates to the Child Care Addition. And so we had a question that came up yesterday as it relates to the costs for the Child Care Addition -- and I don't have the piece of paper in front of me.

Council President Praisner,

The question was the huge cost increases associated with the Child Care PDF as it relates to if that's being constructed with the school project, how the costs are separated and why these large increases.

Dick Hawes,

Mrs. Praisner, I think there might have been a little misunderstanding about how that initial cost was put forward. We were asked back in the fall prior to doing feasibility planning for Takoma Park Elementary School's addition to give HHS some idea of what we thought the magnitude of cost was going to be for a County-operated daycare facility with the Takoma Park addition. And we gave them the cost that -- the cost for the Arcola project where we had a similar type program. But the Director of Construction has assured me that he caveated that with, "We haven't done facility planning yet." This is a project that's a start-from-scratch design. It was embedded in the project design. The site was real -- there was no issues with the site, and so that cost should only be used for an order of magnitude. We didn't finish the facility planning -- or the feasibility planning until February of this year. And when the facility planning was completed, the cost estimate was spun out for the daycare piece. There's site issues. This is an addition project, not a brand new school. And that's how we developed the most recent costs for the project. As you know, we are very cautious about giving numbers out prior to a facility planning because folks have a tendency just to remember that number regardless of what you say. So there hasn't been any increase in our construction costs; in fact, our construction --

Council President Praisner,

Those are the actual costs.

Dick Hawes,

Those are the actual costs. In fact, our construction costs for the past year have been pretty flat. And everything that we've bid this past fall came within budget -- or this past summer came within budget.

Council President Praisner,

So as I recall the packet from yesterday -- and I don't have it in front of me either --



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1 Council Vice President Knapp,
2 Essie does.

3
4 Council President Praisner,
5 Essie does. There was also some reference to the future projects coming. You're in
6 facility planning for Galway already. So how are the numbers for the other schools that
7 follow as far as the daycare sites? Are they pretty firm numbers then?

8
9 Dick Hawes,
10 Those are firm numbers. Anything that we've gone through facilities planning on has
11 firm numbers.

12
13 Council President Praisner,
14 Okay. What are the other school from that list, Essie?

15
16 Essie McGuire,
17 The other schools in the out years are Weller Road, and a second one that are
18 estimated for over a million dollars; however, I'm not sure where they are in the planning
19 process. And at the moment, there's only planning dollars in the CIP. I think the concern
20 was that even the estimates are increasing.

21
22 Council President Praisner,
23 Isn't there a reference to Galway on the second page and the cost increase on Galway?

24
25 Essie McGuire,
26 Yes. I'm sorry. I need to look at that.

27
28 Council President Praisner,
29 Okay.

30
31 Dick Hawes,
32 I think the important thing to remember is -- as you know, Mrs. Praisner -- we were very
33 cautious about using numbers until we finished facility planning on any of these
34 projects. Well, I think it would be helpful though so that the PDF is clear where we're
35 putting dollar amounts for future projects that we put some language, Keith, that says
36 that the facility planning for these schools has not yet occurred; and therefore the dollar
37 numbers are placeholders -- or whatever term we want to use -- so that folks are not
38 surprised if the numbers come in larger later, and we'd know where they are in the
39 stage when we're identifying the schools.

40
41 Essie McGuire,
42 Sorry about the confusion.

43
44 Council President Praisner,
45 That's okay.



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1 Essie McGuire,

2 The Arcola cost is \$460,000; and that is, as we've discussed, a firm number. Galway is
3 at \$840,00 and then the issue with Tacoma Park is at \$871,000 now with the revised
4 estimate. Weller Road and Bel Pre are the ones that are estimated at over a million
5 dollars. And, as you were saying, the PDF could be clearer as to where they are in the
6 process.

7
8 Council President Praisner,

9 I think it would be helpful if you plugged in a status as to where those schools are in the
10 process and what those numbers reflect from a standpoint of how those numbers are
11 arrived at. If you could work with Essie and Keith on creating a sentence or two and
12 then running it by the Chair of HHS, Mr. Leventhal, and the Vice President, and myself, I
13 think that would help us in making sure we all know what the documents says. Thank
14 you.

15
16 Dick Hawes,

17 Absolutely, Mrs. Praisner.

18
19 Council President Praisner,

20 Thank you.

21
22 Council Vice President Knapp,

23 I appreciate clearing that up -- getting that cleared up from yesterday. Our first item is
24 the CIP. This is an off-year CIP, so it's in between the two years we actually do a full
25 Capital Budget. We'll do a full Capital Budget this coming year. As a result, there are
26 really just amendments that come over. In addition to the amendments we will talk in a
27 minute, there are also a couple of supplemental pieces that have to be addressed. The
28 Council's already approved a supplemental for \$3.572 million which accelerates the
29 appropriations we do every year for Portable Classrooms. There's also an appropriation
30 pending at \$1.2 million in stormwater management, which is coming before the Council
31 on the 17th. And then we're also looking at May 21st. The Board will consider
32 transmitting a request to the Council for \$150,000, to include signalization at the current
33 entrance to Northwood High School on Maryland 193. I know Mrs. Praisner --

34
35 Council President Praisner,

36 I need to jump in right there because -- talk about a moving target and a changing
37 situation. It depends upon which representatives we talk to. And I know that Mr. Hawes
38 has a meeting tonight with the Northwood community, so I want to bring my colleagues
39 up to date. And I want to see if the School System has any comments it would like to
40 make. My understanding -- we had talked the day of the Capital Improvements Program
41 on the issue of the signal and the fact that the Board was going to come over with a
42 supplemental that they would consider related to the signal. And there was an
43 expectation that the signal could be done this summer. That was what originally we
44 were told by State Highway. There appears to be, within State Highway, some concern
45 about the issue of doing the signal absent the road realignment -- the right out exit
46 associated with University Boulevard. That's something that needs to be planned as yet.



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1 And I thought the School System's goal was -- because we thought that we could do
2 this in two pieces, but the planning for the right out takes a little longer. I don't know
3 where that issue is with State Highway; and I think we need to continue to see where
4 the resolution is, if they can be done in two pieces. But whether they can be done in two
5 pieces or not, it appears that we need to do the engineering work in order to be able to
6 move as quickly as the system can with the second piece. So my understanding is, at
7 this point the system will be bringing us a \$350,000 supplemental -- \$200,000 for the
8 design pieces of the right out exit and the \$150,000 that we've already been alerted
9 about dealing with the signal. The staging and the phasing of that is a frustrating issue,
10 obviously; and the improvements as far as the intersection can't be done during this
11 summer, as I understand it, because they still have to be designed. I just want to work
12 with the system in any way I can to help, perhaps, facilitate a State Highway resolution.
13 But it appears to me that it is a little more complicated than originally discussed by State
14 Highway. The other thing somebody had asked is the issue of whether this is funded by
15 the County or not. And I think we've gotten clarification of that issue, that this is a
16 requirement that we are requesting; and, therefore, it is not a State Highway project but
17 a County-funded project. So I'm anticipating, President Navarro, that you will deal with it
18 on your side. And I will try to move it along here, recognizing our recess and other
19 issues. But it does seem that we still have a challenge associated with trying to improve
20 the safety access and egress at Northwood High School. I know that when we have the
21 public hearing -- if I may, I want to segue on the Capital Budget. We also heard quite a
22 bit from the Northwood community about the other issues at Northwood High School.
23 And this is -- obviously, there's nothing in front of us on that issue. But I just want to
24 personally ask that you try to work as aggressively as possible in dealing with the other
25 issues associated with Northwood and it being a full four-year school. So that's an
26 update for my colleagues. Okay. Any comments?

27
28 Dick Hawes,

29 Mrs. Praisner, you are correct. We do have an item on the May 21st Board agenda. It's
30 actually a request for an FY 2008 amendment to the CIP for the \$350,000 -- the
31 \$150,000 for the light, if we can go forward, and \$200,000 beginning engineering work
32 so we can compress the actual buildout for all the improvements. And then we are
33 looking at the other issues that were mentioned by the community. And we're looking at
34 how we can make a recommendation to the superintendent to perhaps include some
35 things in the next CIP to address those issues.

36
37 Council President Praisner,

38 Well, I've alerted the County Executive about these issues as well; so he's aware.

39
40 Council Vice President Knapp,

41 Dr. Weast?

42
43 Jerry Weast,

44 Madame President and members of the Board, I do want to push ahead on it, and I
45 know you do too because I think what's at issue here is safety. And I'm very concerned
46 about getting some more help from the State with regard to while they're not paying for



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1 it, they're impinging upon our ability to do it. I'd like to see this done before school
2 opens, and it doesn't appear at this time there's any way that that's going to occur. And I
3 worry every day, as I know everybody in this room does, about the safety of the
4 children. Now, as far as the overall capital improvement of the building, yes, I'm awaiting
5 my staff to bring me some things forward that will show up in the fall CIP. And we're
6 evaluating not only the quality of the work that we currently have done – which there are
7 some issues – but the quality of the work that we need to get done, and then trying to
8 figure out how to balance that out in the future CIP.

9
10 Council Vice President Knapp,
11 Great.

12
13 Council President Praisner,
14 Well, I have phone calls in to State Highway.

15
16 Jerry Weast,
17 I appreciate that.

18
19 Nancy Navarro,
20 From the Board's perspective, I just wanted to let you know that we are aware and we
21 are obviously looking forward to whatever the superintendent is going to present to us in
22 the next Board meeting. And we've also met extensively with community members in
23 the downcounty area with issues and concerns regarding Northwood. So I think we're
24 all working together as a team to hopefully resolve this within the limitations of our
25 funding. Thank you.

26
27 Council Vice President Knapp,
28 Great. Thank you.

29
30 Council President Praisner,
31 And with the clock.

32
33 Nancy Navarro,
34 That's an issue as well.

35
36 Council President Praisner,
37 Okay. Speaking of the clock, I'm sorry for taking so long.

38
39 Council Vice President Knapp,
40 That's okay. That's an important issue. Mr. Elrich, do you have a comment on this issue
41 or probably on the CIP?

42
43 Councilmember Elrich,
44 On the CIP, but not Northwood.



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Council Vice President Knapp,

Okay. Let me run through a little more and then have Keith get to the projects. So if you look on page 3, it lays out what the approved FY07-12 CIP for MCPS was. It's a total of almost \$1.2 billion over six years, which is nearly a \$500 million increase over where we were four years ago. The FY07 expenditure was \$255 million. FY08 is projected at \$237 million, and then plays out over the remaining years; and we'll obviously have significant discussion about the remainder of that as we get to next year. The Board has an additional seven requests beyond what we've done with the stormwater management: building modification and program improvements, current replacements/modernizations, relocatable classrooms, stadium lighting, East Silver Spring Elementary School addition, the Tacoma Park Elementary School addition, and Poolesville High School laboratory upgrades and addition. And Keith will quickly walk through those to see if people have any comments on any of those specifically. Just as it relates to State Aid, as everyone's aware, we have \$52.3 million from the State – which is an additional \$12.3 million than was assumed in the FY07-12 CIP, but still well below the \$130 million that we were eligible to receive. The County Executive provided us with a series of recommendations. The Committee actually assumed the MCPS expenditure schedule for now, pending the Council's CIP reconciliation process. And as it relates to the Council reconciliation, in addition to the amendments that were sent over by the School System, Dr. Orlin provided a series of other PDFs that he wanted to make sure were open for discussion and for hearing. And so I think he's identified those on the bottom of page 5 which may come into discussion -- as well as Number 2 on page 6. And so some of these are sort of technical changes; but to the extent that Dr. Orlin needs those for the remainder of the CIP, we may see these for further discussion in the next few days. With the exception of the projects we've discussed above, which are the subject of the amendments, MCPS proposed FY08 project appropriations are identical to the FY08 appropriations projected last year. And the Committee recommends approval of those appropriations. And then with the amendments, it was an additional \$4.2 million above what was approved last year. And the Committee recommended approval of each of those amendments. And I was going to have Keith just walk us through each of those PDFs quickly and see if there are any questions.

Keith Levchenko,

The first project is a project that was actually new for FY07, the Building Modifications and Program Improvements Project. Only the first two years of the project have expenditures. However, I think based on what we're seeing this year, we can expect that this project is likely to be a permanent, ongoing project. And we expect to see requests from the superintendent in the fall in this project as well.

Council President Praisner,

Would that be where Northwood would appear?

Keith Levchenko,

Well, Northwood still does have a separate project activity in the CIPs. It could be either. It depends on the work that we're talking about for that school. The amendment request this year is for \$558,000 for modifications to Whooton High School to accommodate two



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1 new computer laboratories for the Academy of Information Technology. MCPS would
2 like to do the work this summer so that the required courses involved in that certification
3 program are available for the full school year. And the Committee did recommend
4 approval of this amendment. Staff noted in the packet some suggestions about how to
5 prioritize some of these amendments. To the degree the Council has to do some
6 prioritization at reconciliation, it would be helpful to have some feedback from the
7 Council as we go through these projects.

8
9 Council President Praisner,

10 Okay. Marc, on this issue or is this a good time?

11 Yeah, I think it's a good time. Okay. Go ahead. Jump in.

12
13 Councilmember Elrich,

14 I've not been able to figure out a good time to come – where exactly this fits. During the
15 capital hearing we had on the school capital improvements, we heard lots of issues
16 raised – not about the larger modernization schedule but about things like bathrooms,
17 roofs, and rodents. Probably that's the three main categories. And a lot of requests from
18 people to get those repairs done and talk about bathrooms out of service for very, very
19 long time. And I'm a believer that the message you send to kids is partly conveyed by
20 the state of our school buildings. And to have buildings where the bathrooms aren't
21 functioning or closed off sends absolutely the wrong message to kids. And so my
22 question is, Where does that fit into this, and what can be done to allay the community's
23 concerns that they won't get addressed until these projects hit their place in the
24 renovation cycle? I'm not asking that you accelerate whole building renovations; but
25 there's got to be some way of assuring that when bathrooms go down, bathrooms get
26 fixed. When roofs start leaking, all those things get addressed. When rodents appear,
27 the rodents get removed. So I'm just wondering how that fits in because I don't know
28 where to place it in the context of this discussion.

29
30 Dick Hawes,

31 Those are fair questions, Mr. Elrick. Elrich, I'm sorry.

32
33 Council President Praisner,

34 The governor is gone. (Laughter) And Marc lives on.

35
36 Dick Hawes,

37 Freudian slip there. Excuse me.

38
39 Council President Praisner,

40 That's okay. I've made the same mistake myself; so you're in good company, Dick.

41
42 Dick Hawes,

43 Thank you. We do deal routinely with routine maintenance issues like pest control, a
44 fixture that might need to be fixed, and a minor roof leak. In conjunction with that, we
45 also have a major Capital Budget program where we replace all roofs every twenty
46 years. And the Council's been very good about funding that to a level where we can



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1 stay on that twenty-year cycle. Occasionally we get behind, but it's only by a couple of
2 years. We also have in the CIP that was funded two years ago a cyclical program where
3 we're going through and renovating all the bathrooms in all the facilities that aren't part
4 of our modernization program. So between those three programs or the way that we
5 resolve those issues, I think we've got those things covered – short of folks having to
6 wait for a full modernization.

7
8 Councilmember Elrich,

9 So we're not going to tour – what was it, Rock Creek Forest over by –

10
11 Council President Praisner,

12 Yes, exactly.

13
14 Councilmember Elrich,

15 I'm going to be able to tell them that the bathroom will be –

16
17 Dick Hawes,

18 Yeah, I believe they're scheduled to have a bathroom renovation. I'm going to have to
19 go back and look at the schedule.

20
21 Council Vice President Knapp,

22 Yeah, there are on the priority list.

23
24 Dick Hawes,

25 They're on the list to have their bathroom fully renovated within the six-year period.

26
27 Council President Praisner,

28 It wasn't bathrooms. It was rats in the ceiling.

29
30 Councilmember Trachtenberg

31 It was ceiling issues, with rodents in particular.

32
33 Councilmember Elrich,

34 Right. It seems to me –

35
36 Nancy Navarro,

37 My understanding that is being addressed because I tour that school every day since
38 I've been a parent there for ten years. But my understanding – I mean, the last I heard
39 from you guys is that that is addressed. And it's something that just erupts, and then
40 you have to go ahead and take care of it. But they are scheduled for modernization, so
41 that's why it's difficult to do a major overhaul. But, yeah, it's an issue that we share in
42 terms of concern.

43
44 Councilmember Elrich,

45 Do you have the capacity limit of the money and how many of these you can do in a
46 year?



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1 Dick Hawes,

2 Well, there are holding school issues for the elementary schools.

3
4 Councilmember Elrich,

5 But those bathrooms, I mean, and things like that.

6
7 Dick Hawes,

8 Yes. There's always capacity issues. There are only so many contractors. There is only
9 so much work that we can do over a summer. So we tried to schedule the bathroom
10 renovation work so that we could keep it within that capacity, but address all those
11 bathrooms within our current six-year CIP.

12
13 Councilmember Elrich,

14 Does that mean that some bathrooms could be closed until they're done in the sixth
15 year?

16
17 Dick Hawes,

18 No. We take care – if there's a problem with an individual bathroom, we take care of
19 that routinely through our maintenance program. It may take a week or so to get it fixed,
20 but we're not leaving bathrooms down until we do a renovation program. The renovation
21 program is just to systemically deal with those older bathrooms that just are not in such
22 great shape now and don't look very good.

23
24 Councilmember Elrich,

25 As a teacher, I know not to blame you for it because in my school, my kids routinely --
26 on a daily basis -- rendered the bathrooms dysfunctional. And it had nothing to do with
27 bad fixtures. It had to do with – you know, we're not supposed to be standing in the
28 bathroom when they go there. It gets to the issue that George has raised on behavior
29 issues in general. I mean our bathrooms are disabled quite frequently by decisions
30 children make to disable them.

31
32 Dick Hawes,

33 And those are things that we take care of routinely. And then just to play on what Mrs.
34 Navarro said, we are reconstructing the trash rooms this summer at Rock Creek Forest
35 to create a separate area that's properly sealed and rodent proof so that the staff can
36 store the trash in this area and wait for the pickup without having fear that that's going to
37 promulgate rodent problems and that sort of thing.

38
39 Councilmember Elrich,

40 Thank you.

41
42 Dick Hawes,

43 And we've notified the school of that, by the way – that we're going to do that.

44
45 Council Vice President Knapp,

46 Great. Okay. Continue on Keith.



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Keith Levchenko,

The next project amendment was in the Current Replacements and Modernizations Program – the Galway Elementary School modernization. Based on the current estimates for the project and some additional scope issues that MCPS has identified, there's a \$3.5 million additional amount needed for construction. I did note in the packet on page 7, the specifics regarding some of the mechanical and electrical work that initially was thought to be able to be reused as part of this project, but will actually have to be upgraded to current codes requirements. The Committee recommended approval of this project, with the caveat that this is one of the projects that may have some technical adjustments to meet funding issues or expenditure issues within certain fiscal years.

Council Vice President Knapp,
Okay. No lights?

Council President Praisner,
Keep going.

Keith Levchenko,

The next one is the Poolesville High School Laboratory Upgrades & Addition Project. This is a new project to upgrade existing labs and also create six additional labs in Poolesville High School. The facilities are needed to serve the needs of the new Magnet Programs at the school as well as the existing Science Program. The projects would be completed in August 2009. At the Committee worksession, MCPS noted that the issue of high school labs is one that's being looked at actually across the County, so we may see some further issues with this in the next CIP perhaps. The Committee recommended approval of this project as proposed.

Council President Praisner,
Keep going.

Council Vice President Knapp,
Keep going. No lights. Go on to Stadium Lighting.

Keith Levchenko,

Stadium Lighting. The Clarksburg High School is now in the queue for stadium lighting. Consistent with Council policy, there's an assumption that half the costs would be funded with contributions, the other half by the County. And so this is the next one in the queue. At the Committee worksession, there was some discussion about the status of Northwood High School's lights, which MCPS has indicated are scheduled to go in this summer as well.

Council Vice President Knapp,
Okay? No lights?



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Council President Praisner,

I just would make a comment that you may want to look at the outdoor lighting legislation to see the extent to which you can accommodate the requirements as far as spillage. There's reference here to try to reduce that so it's focused where it need to be. We haven't passed or considered the legislation, but the goal is to not have a Blake High School situation lighting up the sky.

Councilmember Floreen,
If I might.

Council President Praisner,
Mm-hmm.

Councilmember Floreen,
Just on the lighting thing, I think we're taking it up in Committee next month. You all will want to take a peek at that.

Council President Praisner,
Thanks.

Councilmember Floreen,
We'd benefit from your comments.

Council Vice President Knapp,
Okay. New Capacity. There's a lot to this new capacity project, East Silver Spring Elementary School and Takoma Park Elementary School additions, so I don't think we need to –

Keith Levchenko,
I won't go through the gory details.

Council Vice President Knapp,
Good.

Keith Levchenko,
I did identify in the packet, for both East Silver Spring and Takoma Park, the capacity issues in the downcounty consortium, and the impacts of doing one or both or neither of these projects in the short term in terms of utilization. I think the short answer is that they are high on the overutilization scale Countywide. And I think the Committee agreed that these were high-priority capacity projects. I've also included in the packets some specifics about the additions at both schools. They are somewhat complex addition projects. And the School System can certainly speak to the specifics. You already heard one issue regarding the childcare spaces at Tacoma Park Elementary School. But I did include in the packets some feasibility study information for both the projects. And I noted also in the packet how it is very difficult to establish an estimated cost-per-classroom. It really is so specific to the addition projects that it's very difficult to



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1 generalize across the County what an additional two, four, six, eight classrooms would
2 cost at a particular school. Partly it's because within the additions, you have to do some
3 additional work within the existing envelope of the building. You have to tie the systems
4 together. You've got site issues. All these really do make these case-by-case projects in
5 that sense. But I did include in the packets some discussion of that. In the past and at
6 this most recent worksession, the Committee did discuss the benefits of these projects
7 in terms of the reduction of relocatable classrooms and also some of the cost savings
8 you achieve from doing that. But, at least for now, and we did get some information from
9 the superintendent about the relocatable classroom reductions. Just with the
10 classrooms that are programmed in the six-year CIP, we will see a substantial reduction
11 in relocatables. And in addition, we do expect to see some additional projects requested
12 by the superintendent in the fall that the Council will have to take up and consider in that
13 context as well. But for these two particular projects, the Committee did recommend
14 approval of the projects as proposed.

15
16 Council Vice President Knapp,

17 Right. Okay? No questions. That concludes the new amendments for this year's -- the
18 off-year CIP. The Committee -- and we'll talk more about that when we get to the overall
19 budget discussions -- but had recommended taking \$4.2 million of the additional \$12.35
20 million that we received from the State to fund those additions. I just wanted to see if
21 President Navarro or Dr. Weast has any additions to the capital piece. Okay? Mr.
22 Berliner.

23
24 Councilmember Berliner,

25 If I could, Mr. Chairman, as you point out, the recommendations of the Committee was
26 to use \$4 million plus for the CIP's amendments and to use for operating dollars the
27 remaining nice gift we got from the State of the \$12.5 --

28
29 Council President Praisner,

30 It's not a gift --

31
32 Councilmember Berliner,

33 I understand. They so underfunded what we got. But this unexpected \$12.5 million.
34 And, of course, the question that many people have in the community is, Why can't we
35 spend those dollars on capital projects? And I would appreciate if we could have an on-
36 the-record discussion with respect to that. I understand that we have operating needs
37 as well; but I am told by many people that since there were no amendments put before
38 us that proposed spending these dollars on capital projects, that we could not spend
39 them for school capital projects even if we wanted to at this juncture. So I would like to
40 have a very full conversation, really for the public, so that they understand why it is that
41 we are doing what we have proposed to do. So I would appreciate it if the School
42 System in particular would share with us why it is that there weren't more dollars that
43 were asked for, are we limited in this way, etc.

44
45 Council Vice President Knapp,



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1 And I think part of it goes to the full-year versus off-year CIP, but I think it's important
2 just to get a sense of how the Board prioritizes and how we put those pieces together
3 and how they come forward to us.

4
5
6 Council President Praisner,
7 Comments anyone? Who's going to answer that? I can't wait to hear the answer.

8
9 Dick Hawes,

10 Ms. Praisner, we've been doing this for a long time; so you know as well as I do that
11 once you get the State appropriation, it's the Council's decision on how it gets used. The
12 only thing you -- since it's a one-time appropriation, you can use it for the year it's
13 appropriated at. You can't commit future funding because you don't know if the State's
14 going to provide the additional funding needed for the local match and to sustain the
15 expenditure schedule that's needed for the project. But the bottom line is that it's the
16 Council's money to decide how they will spend it.

17
18 Council President Praisner,

19 And the reality is that just as we're doing a Northwood supplemental that will come in
20 this year, that money could be used to cover the Northwood cost. That money also
21 could be used on repairs and maintenance because it's current revenue and it's County
22 money. And it could be used in schools, but it doesn't have to be used in schools as well
23 -- as you indicated. But there are school projects on which it could be used as well.

24
25 Dick Hawes,

26 Yeah. School projects, I think.

27
28 Keith Levchenko,

29 The one thing to keep in mind -- and certainly there's plenty of capital needs out there --
30 but many of them are tied, as Dick mentioned, multiyear substantial cost issues that the
31 \$8 million we're talking about here would not fully address. It may allow you to do one
32 year of a multiyear project, and then you're faced with that need in the future years.
33 Also, some of these projects are linked to other projects. You may be doing
34 modernizations and additions at certain times; and on the pace of the schedule, holding
35 schools are involved. So it could be very difficult to get at some of the high-priority
36 capacity projects you want to in an off-year absent the School System having gone
37 through its own priorities and put forward projects in a sequence that works for them. To
38 take a standalone project, like a gymnasium or other project that may not have some of
39 these links to it, it is certainly possible that you could accelerate some of that. But then
40 you're talking about priorities that may not be in line with what the School System has.
41 And we do rely on them to submit their requests just for that reason -- so that they go
42 within a priority that reflects theirs. So I think it would definitely be of concern to staff if
43 the Council were to float projects that they would like to do that had not been vetted at
44 the School System first.

45
46 Councilmember Berliner,



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1 You mean my little District 1 gymnasium that – we shouldn't do that.

2
3 Council President Praisner,
4 No. We don't do that.

5
6
7 Councilmember Berliner,
8 I understand.

9
10 Keith Levchenko,
11 First, that gymnasium could be -- some of these gymnasiums are linked to
12 modernizations that are occurring in two or three years. You couldn't accelerate it cost
13 effectively.

14
15 Councilmember Berliner,
16 My fundamental question if I could, Mr. Chairman, was why the school Board did not
17 propose more dollars in the CIP, given that we had \$12 and a half million and only \$4
18 and a half million, as I understand it, if you will, was allocated for that purpose? And I
19 am not – I am not seeking, for the purposes of this conversation, to move the project out
20 of sequence. But I was surprised to understand that we could be limited in some way by
21 virtue of the fact the School System had not requested more dollars.

22
23 Keith Levchenko,
24 Well, from a timing standpoint, they certainly -- when these requests first came forward
25 from the superintendent in November and the Board in December, they had no idea
26 what the State Aid would be.

27
28 Councilmember Berliner,
29 Yes.

30
31 Keith Levchenko,
32 That was just approved within the last month. So they'd have no idea of knowing
33 whether we were going to get \$40 million, \$30 million, or \$50 million. They base their
34 CIP on first supporting the existing CIP. Any cost issues there they wanted to address,
35 such as the Galway Elementary School modernization – that's supporting the approved
36 CIP. Next they looked at projects that were in facility planning that were ready to move
37 forward that met the urgent-capacity need, such as East Silver Spring, Takoma Park.
38 I'm sorry. I'm speaking for the School System; but the idea is that it is an amendment
39 year, and that you would not bring up initiatives that otherwise could wait until a full CIP
40 year.

41
42 Dick Hawes,
43 And the other thing I'd like to add, Mr. Berliner, is that we're not in a position to move
44 projects forward right now because we schedule them so we get the design money one
45 year. So the projects that we have design money for this year, in '08, aren't going to be



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ready for construction until '09. So we can't bring projects forward; however, there are projects this year that are being funded that that money could be used for.

Council Vice President Knapp,

One of the other things to add to that too, though -- and I know there's frustration in your district as there is throughout, especially given some of the issues that the previous Council dealt with as it relates to the queue and what's in the queue and what's in what part of the queue -- that we're going to be working with the Board and with MCCPTA and some others through the summer -- to begin to have some clear understanding of how is that queue developed and where are different schools within that queue. Because I think it's an amazingly cumbersome process to be able to articulate to anyone where they fit. And so I think it's going to be helpful for us to improve the -- a word that we've used way too often -- but improve the "transparency" of how those pieces fit together so that it's more readily apparent to people where things are and what could move forward and what wouldn't. Because I think it is still relatively opaque to anyone looking in from the outside, and even to those of us who are on the inside.

Councilmember Berliner,

And I just want to say, I am not trying to push this conversation one way or the other. But I do believe that the public deserves to understand why it is that these dollars, that they certainly perceive to be dollars that are appropriate for school capital projects in a context in which we have so many unmet needs, either cannot be or will not be spent for that purpose. And I think it's very important that we just have the conversation so that you can explain to the public why it is that this isn't going to happen in that way.

Council President Praisner,

Well, you've generated some lights; so let's get Councilmember Floreen.

Councilmember Floreen,

Thank you, Madame President. Correct me if I'm wrong, but the money that the State is returning -- they're returning dollars to us that we've already spent.

Council President Praisner,

Correct.

Councilmember Floreen,

So a person could say, "Well, there's X amount of dollars in current revenue." Some of the money that we used to pay for school construction is current revenue, but we ordinarily do allocate some of that. There's a significant amount in the current CIP.

Council Vice President Knapp,

Right.

Councilmember Floreen,

Now, some people -- and we might be apply for reimbursement for that current revenue. In a later request to the State, maybe we already have requested it. But the fact of the



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1 matter is, we've already spent money that we're getting for capital improvements
2 already that we're being reimbursed for. And Mr. Hawes is – and so money is returning,
3 technically, to the County.

4
5 Council Vice President Knapp,
6 Right.

7
8 Councilmember Floreen,
9 Because it's basically reimbursing the County for its expenditures for capital programs.
10 So we could choose to spend that on any number of competing needs – which is the
11 challenge of today in the budgetary process. And so, as Mr. Hawes indicated, it is up to
12 us to allocate that money. But the fact of the matter is, it is not committed in return to
13 capital projects, per se. It is a choice as to how those dollars should be expended. And
14 we could have a conversation about how we might all choose to spend that dollar. But
15 the fact of the matter is, it's not new money for capital improvements; it's reimbursement
16 for expenditures that have already occurred. So the ultimate issue, of course, is how
17 best to spend that money given the wide variety of competing needs.

18
19 Council Vice President Knapp,
20 It's retroactive versus proactive.

21
22 Councilmember Floreen,
23 Right. So it's not – well, and it's not like, "Oh, we want to build a gym. Can we have
24 some money for the gym?" Here's the money; now we can build the gym. It is not that
25 conversation – which I do agree with you. I think many people in the community believe
26 that that is the actual conversation that's gone on with the State. And it doesn't work that
27 way.

28
29 Council Vice President Knapp,
30 Dr. Weast.

31
32 Jerry Weast,
33 You know, I do appreciate this conversation. I think it's a good question, and I get it all
34 the time. And part of the issue is -- from at least my point of view, these are my
35 technical experts – is a timing issue. The State actually owes us \$135 million. Because
36 this Council actually puts more money into construction for schools than almost the
37 entire State puts in. Actually, you were putting in more until this one-time \$400 million
38 that came through this year.

39
40 Council President Praisner,
41 "One-time" -- say that again.

42
43 Jerry Weast,
44 One-time. It is one-time. And therein lies the problem. So when they were doing \$200
45 million and you were putting in over \$200 million yourself just at the local level, we have
46 a timing issue. They owe you \$135 million, that's number one. Number two, when we



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submitted our CIP amendments, we did not know what the State was going to do. And then when the recommendation came from the Executive -- you'll remember there was \$19 million taken off of our recommendation that we had submitted that was for Takoma Park and East Silver Spring. Well, the extra \$12 million wouldn't fill that in. That was our next priority. We had that in there, and it was in our CIP amendment. And so consequently, when you're putting in \$214 million and there's no anticipation of you getting more money next year -- at least from what we're reading --

Council President Praisner,
The governor said that the other day.

Jerry Weast,
And we're all hearing the same things -- and you get the \$52 million from the State, we were going to accomplish \$254 million. And so what this enables us to do is that if we don't have enough to do with the two projects that we were putting in, then it means that the State puts in \$52 million and you only put in \$202 million. And that frees the dollars for dealing with other County needs of which you can appropriate them to because they're your dollars. You're still putting in an excess of \$200 million. So had we chosen to speed up the other projects, we would have been doing Takoma Park, East Silver Spring, Northwood -- which is a problem -- and the other projects that we were doing at the same time. So it becomes a very challenging timing. And do we want to do more? Of course. Do you want to do more? Of course. Do the needs grow upon us? Of course. But I am very proud to be in this County where they do expend more than \$200 million annually on construction. So these are all issues.

Council President Praisner,
Well, I think the other point that needs to be made, though, is that it's one-time money that's additional money from the State. And with that, we have to be very careful where we use it. It gets put into the overall pot of revenue in the County's pot of current revenue. But how we spend that additional money above the assumptions of money that we have is a concern because it's not going to be there next year. It's not an ongoing new pot of money that's going to continue to be there. So that's where the appeal of doing a gym or improving conditions in existing schools become appealing because it's a discrete project and you can get it done, and it doesn't come back on an ongoing basis like some of the other ways in which you could use that money. And I think that's got to be a concern of all of ours. Any time you're using one-time money for ongoing costs, you are digging your hole deeper; and that's the biggest issue -- how much we're owed by the State. If we knew the State was going to write us the same kind of check every year, then it wouldn't be one-time money. But that's where we are.

Council Vice President Knapp,
It would be different. Right.

Council President Praisner,
I have actually one question if you're done, Councilmember Berliner. On Circle 49 is the East Silver Spring Elementary School Addition; and over in the corner, there's the



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1 Master Plan Relocatable Classroom Location. And the question I have is, I didn't see
2 the same thing in the Takoma Park -- or maybe I just missed it. But are we, as a
3 standard for all of our modernizations, considering the location of possible future
4 relocatable classrooms?

5
6
7 Dick Hawes,
8 Yes, ma'am.

9
10 Council President Praisner,
11 Okay, thank you. I just wanted that on the record as well.

12
13 Council Vice President Knapp,
14 Okay. Well, that concludes the CIP portion of the MCPS budget. And I want to thank Mr.
15 Berliner for his question and thank everyone. I think that's a good discussion. And I
16 think there's been a lot of questions asked, and I think it's important for us to have that
17 dialogue on the record. So thank you for that. We now turn to the MCPS FY08
18 Operating Budget. Thank you, Mr. Hawes. And with luck, relative to the President's
19 request, we can do this in the next 50 or so minutes.

20
21 Council President Praisner,
22 There are some councilmembers who had planned to leave for a press conference on
23 affordable housing. So to the extent to which we can move it -- Well, I just meant to the
24 extent to which we can move it along.

25
26 Council Vice President Knapp,
27 I will run through some quick remarks. And I just want to thank everyone for their
28 participation in this budget exercise. In particular, to thank the Board President and the
29 Board members who have met with us on a regular basis; the superintendent; and
30 MCPS staff; and most importantly, to thank my two colleagues, Ms. Ervin and Mr.
31 Andrews, for their efforts. We have taken a very different approach this year than has
32 been taken by the Education Committee in the past. And as a result, they've had to sit in
33 a lot more meetings than probably either of them had ever anticipated. But I thank them
34 and their passion and advocacy. We've had some very good and spirited discussions
35 which I think have really identified a number of issues. But I really thank the Board and
36 the School System for being a participant in all of those discussions as well because I
37 think everyone has been at the table, and I think that has really added to the dialogue.
38 We really have taken a very different approach from the Committee. And so as I as a
39 councilmember have really wrestled with what is the role of the Council versus the
40 Board -- obviously an elected Board that has very clear policy guidance and State
41 requirements that are mandated in State law. And so it became clear to me after a while
42 that our approach is really to look and see where does the Strategic Plan fit within the
43 County's broader goals and objectives, and how are those outcomes being measured?
44 And so looking at that, that's kind of how the Committee has approached its efforts over
45 the course of the last six months. We start our dialogue back in January by meeting with
46 Mr. Bowers and reviewing the Strategic Plan that the School System had set out;



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1 walking through then an existing budget overview of the current budget; then with our
2 efforts with the Office of Legislative Oversight. They've done two reports for us as it
3 related to fiscal indicators in the workforce which gave us some real good nuts and bolts
4 as to understanding what really underlies the budget. And then we spent, I believe, six
5 different worksessions looking at the budget itself. But even before that, we had two
6 worksessions looking at what the Board's initiatives were recommended. So we had an
7 understanding before we actually got to the funding discussion for the budget and then
8 looking at the budget itself and the elements that went into that. And so we've had a
9 fairly lengthy discussion; and Ms. Navarro's joined us for most of those, and so I
10 appreciate that, especially given a part-time job. But our focus really has been on the
11 County's resources, how those resources are being utilized to the strongest sense to
12 educate our children as successfully as we possibly can. And there's been lots of
13 conversations about oversight and accountability. And I think what our objective has
14 been is to really – to us that's really the process of having this ongoing dialogue – so we
15 can stand up and be able to articulate really what's in that budget, in conjunction with
16 the Board, and say how we're doing in meeting our outcomes and our objectives over
17 time. And I think that's what our goal is and that's where we get to the oversight piece.
18 Through the course of our discussions, we identified many, many issues -- some of
19 which we're all aware of, some of which are new and will be things we'll delve into more
20 deeply. Probably the thing I think that ends up being the most significant is the notion
21 that the scale and size of MCPS I think is difficult at times for everyone to truly get a
22 handle on. When you've got 140,000 students, 22,000 employees, and the bus fleet that
23 we have – one of the things that struck me was, just doing the math, Mr. Bowers'
24 budget is roughly the same size as Montgomery County Police, Fire and Rescue,
25 Corrections -- and pick another small department -- combined. And that's the scale
26 we're looking at. And it really hit home when I was walking through one of our schools
27 with one of our principals and getting the justification as to why he really needed one or
28 two more teachers. As we kind of played that out, if every principal legitimately asked
29 for one more teacher – which is not an uncommon request nor unheard of – that's 200
30 new teachers. That's \$20 million without anybody doing anything significant. So I think
31 it's important to get some sense of scale for a very legitimate request and everyone's
32 saying, "Well, that makes some sense." You end up at a pretty big number pretty
33 quickly. And so I think that's probably one of the most significant things we got to. A
34 couple of other things we identified, and we'll talk a little bit from the budget -- even
35 though in the coming year we'll have 3,000 fewer students, we also know we'll have
36 1,100 more ESOL students and 3,200 more students living in poverty. And so while the
37 number of students may have declined, the number of students with challenges that we
38 need to address clearly is increasing at a pretty dramatic rate. The achievement data –
39 Ms. Erwin has brought that to our attention fairly regularly to make sure that we're
40 looking at that and have some initiatives with the County Cluster to try and address how
41 we wrestle with that. Readiness for the Workplace. We now have a better
42 understanding that skills that are required in the workplace are -- surprise -- similar to
43 skills that students need to be college-ready. And so how do we make sure that our
44 students are ready to be successful whichever path that they may choose – and on the
45 plus side, that that's roughly the same set of skills. We need to focus more on growth in
46 technology. Special Education. We had a serious of discussions on Special Education



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1 and how we address that, and there'll be a number of challenges that require very
2 diligent follow-up. I know that Board Vice President Brandman has identified a series of
3 things that she wants to continue to monitor, and will be working closely with the Board
4 to get reports to the Council to make sure that we fully understand the implications of
5 some of the changes, make sure that some of the resources are sufficient. So we'll be
6 looking at that as well. And these are just a few of the things that came up. So I guess
7 the other piece I want to put out there is, we've been doing a lot over the course of the
8 last four months in conjunction with everybody in the room. But that's by no way the end
9 of our discussion. It really sets a foundation for where we continue to move forward. We
10 have a very dynamic and vibrant school district, as we've heard a number of times, and
11 so we're going to have to continue to work on these things and make sure as things are
12 changing and fluid that we are responding to meet those challenges and needs and that
13 we understand them. And to try and have that discussion between the months of March
14 and May probably isn't sufficient to be able to address all of those changes and all of
15 those issues. And so we'll continue to have a dialogue throughout the year to
16 supplement and to understand from a funding perspective where we are, not to
17 duplicate where the Board of Education's role and responsibilities are. I believe that the
18 Committee's recommendations here are responsive and responsible and reflect a real
19 thoughtful consideration of good dialogue on the parts of all. And so we'll walk through
20 all of those pieces. But again, I just want to thank everyone for their participation to get
21 us to this process because I think it has been very helpful, and I think we've learned a
22 lot. And I also want to thank Essie and Elaine Bonner-Tompkins for their efforts. I was
23 going through the packets again last night, and I think Essie's generated in excess of
24 500 pages of material for us to review over the course of the last couple of months. And
25 so I thank you for that because while we may not have read every page, I think you've
26 managed to get us to go through most of it. And so with that I just wanted to see,
27 President Navarro, if you have any opening remarks that you'd like to make?

28
29 Nancy Navarro,

30 Well, I would like to start by actually thanking my fellow board members, some of which
31 are here today – Ms. Cox, Vice President Brandman, Dr. Docca, and Ms. O'Neill, I
32 believe, because absolutely every single person that serves on the Board takes this job
33 so seriously; and it is such a difficult job at times because we are so aware of all the
34 competing needs. And so as we spent a lot of time going through the budget and
35 making – and adopting the budget and then sending it over to the Executive, etc., I
36 know that this is almost like déjà vu, as I sat here through many of the worksessions for
37 the Ed Committee because it was really pretty much a repeat – which I completely
38 welcome. I think it is very important. And Chairman Knapp pointed out the scale of the
39 operation of our School System. And when I get a chance to go to the National
40 Conference for School Board Members, it really hits home how extraordinarily unique
41 we are. This is a pretty sizable operation. And, therefore, it has so many competing
42 needs and so many complex issues that I know we are all here committed to work out
43 for the best interests of children, our parents, our community. So I want to thank the
44 Committee – Mr. Andrews and Ms. Ervin as well -- for very, very thoughtful
45 conversations – very frank conversations in terms of how we go through this budget.
46 And I want to thank the County Council as a whole for having been very patient in



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1 listening to the community as they expressed their concerns and their support for the
2 operation of the School System. As you very well know through my previous
3 conversations with many of you, I believe that we can always improve. And that is my
4 commitment. And as we move forward, I think this should be the tone of our
5 collaboration. So I am very glad to be here today and following the Strategic Plan. We
6 have really wonderful staff here, and they will be ready and able to answer whatever
7 questions you might have. Thank you.

8
9 Council Vice President Knapp,
10 Thank you very much. Dr. Weast.

11
12 Jerry Weast,
13 Thank you. Of course I want to thank you, Mr. Chairman, and members of the
14 Committee. I want to particularly thank Valerie Ervin for all of the wonderful questions
15 she normally posed when she was a board member, but also now as a councilmember.
16 Mr. Andrews. I want to thank your staff and our staff. This budget was gone over by the
17 Board of Education -- page by page, item by item. It was gone over by the community. It
18 was gone over by the Council. And it's gone over by OLO. So I think it's a very good
19 airing of all of the kind of issues that come up in a very complex budget. But that isn't
20 what I want to talk to you about in my little two minutes. I want to talk to you about
21 sustainability.

22
23 Council President Praisner,
24 That's not our favorite word right now.

25
26 Councilmember Trachtenberg,
27 There are mixed feelings about that word around here.

28
29 Council President Praisner,
30 You may not want to do that.

31
32 Jerry Weast,
33 Yeah, I do.

34
35 Council President Praisner,
36 Reconsider.

37
38 Jerry Weast
39 No. I do because I'm going to talk to you about not fiscal sustainability, but academic
40 sustainability. That's what we have to worry about. Two things happened in the last 24
41 hours that bring this to my mind. One was the NBC News last night showing that one of
42 our competitive countries, China, has ten million children per grade level. We have
43 approximately four million. And they were showing on the TV how these children were
44 getting early childhood, medical health, physical kinds of activities. And they were
45 showing them doing violin, taking dance, and all of those kind of things that we would
46 want for everybody. Now, unfortunately, it didn't appear that all of the children in that



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1 particular country have that particular kind of regimen. But enough of them had it, and
2 enough of them are learning English, that's there's 100 million people learning English –
3 and we only have 50 million in the entire School System in America. So we need to
4 think about sustainability on a world level of how we compete because the competition
5 is getting harder. And the children in school who will be coming out in 2017 are going
6 into a different world, and they're already here right now. The second one comes from
7 the morning paper. And there is a little bit of an issue going on in our neighboring school
8 system about borrowing somebody else's strategic plan for their new strategic plan. And
9 the reporter had gone down to look at the system that they had borrowed from, and it
10 was in the morning paper today. And here's what the system was dealing with that they
11 were borrowing from. It's in North Carolina. I'm familiar with it. They just had a new
12 round of tests. And the rates between the Blacks and Hispanics and the Whites and
13 Asians had increased the gap by 40 points. So if you've got worldwide competition and
14 then you also have a differential kind of outcome based on race and that is being copied
15 as a model, those are sustainability issues. And I was very appreciative of what that
16 superintendent had to say. And he said there is no urban system that has closed the
17 achievement gap. And when he looks at what are the tools that they have to have, it is
18 many, many, great employees. That's what they're using as their strategy. And when
19 they talked to the students, the students said all students can excel if the right resources
20 are in place. So when you're thinking about fiscal sustainability, we have to think about
21 academic sustainability. And I believe the Board has put together a cogent plan to try to
22 address that. I think it passes muster not only physically, but I think it passes muster
23 academically. We have much more work to do. And as you know, we are increasing the
24 numbers of children who come to us impacted by poverty -- which creates opportunity
25 loss – and impacted by language, which causes us to gear up even more to get them on
26 par with the language. I thank you for what you've all done; are going to do, I hope; and
27 will do in the future. Because the cornerstone of this County is its academic progress for
28 its children, and every one of you are invested in that. And I appreciate that, and I know
29 everyone in this County does too. Thank you.

30
31 Council Vice President Knapp,
32 Thank you very much.

33
34 Council President Praisner,
35 We need to move along to goal. What my goal is, is to have councilmembers' questions
36 or comments relate to where in the sections of the packet they may be. And then if
37 there's no place where it fits, we'll find a place for it to fit. Okay?

38
39 Council Vice President Knapp,
40 There you go.

41
42 Council President Praisner,
43 But in order to ensure that we allow every councilmember if they questions that
44 opportunity, I do want to go section by section. And I've had that conversation with
45 the Committee Chair. And then if there's something left over, we'll get to it as well.
46 Okay? So let's move through that.



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Council Vice President Knapp,

Thank you, Madame President. I will briefly address the summary of the Education Committee recommendations and then come back to that because I think it's important for people to have the overview piece. There may be changes proposed there. So the Committee recommended taking a total of \$6 million in reductions to the Board of Education's request. And that's as a straight reduction, not putting on the reconciliation list for reconsideration. Utilizing \$6.9 million of the MCPS FY07 Fund balance for MCPS FY08 Operating Budget requests. That was a unanimous request. Utilizing the \$12.25 million -- as we've discussed previously -- \$4.2 as it relates to the specific amendments, and then the remainder for some plain and current revenue for capital aid transfer is what the request was. Mr. Andrews was opposed to that element of the recommendation. As it relates to the Fund Balance on page 2, it talks about how much actually goes to -- of the Fund balance is used. Because of the County's 6 percent Reserve Policy, only 90 percent, or 6.495, is available; and the remaining 6 percent must go into our reserves. On page 3, is the planned and current revenue -- again, just an accounting of how that gets addressed as we've talked about relative to the CIP element. The Committee also recommended jointly with the HHS Committee placing \$40,000 on the reconciliation list to provide transportation for children in foster care. We addressed that yesterday as a part of the HHS Budget. And then also to continue advocacy for State funds for universal breakfast programs. Schools are in the process of applying right now to the State to see if they're eligible for resources; and we'll have some feedback. It should be in the June timeframe that the Committee's going to come back in July to see where we are and what requests we may need to make to the State or, relative to the Federal government, to see what are the likely potential outcomes for us to traverse that. The other elements, as it relates on page 3, are issues we've already gone through with Chairman Leventhal: Linkages to Learning, High School Wellness Center, School Health Services, Services to Children with Special Needs, Public/Private Partnerships, and Pre-K and Head Start. In addition, the Kennedy Cluster Project was recommended in the Board of Education for an additional \$150,000 component in this budget.

Council President Praisner,
I just want to be clear.

Council Vice President Knapp,
Sure.

Council President Praisner,
The Pre-K/Head Start that we discussed the other day puts \$250,000 on the reconciliation list, including \$95,000 from MCPS or plus \$95,000?

Council Vice President Knapp,
Plus.

Council President Praisner,



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1 So we should -- if we do that on the reconciliation list, we should delete from MCPS'
2 expenditures \$95,000. From what category do we delete it? Well, it's got to come from a
3 category.

4
5
6
7 Marshall Spatz,
8 All right. Basically, it'd be Category 3.

9
10 Council President Praisner,
11 Category 3. So we would delete it from Category 3 and place it in Health and Human
12 Services Department.

13
14 Essie McGuire,
15 Correct.

16
17 Council President Praisner,
18 And then we also discussed the fact that this would have to be a contract bid process.

19
20 Essie McGuire,
21 Correct.

22
23 Council President Praisner,
24 Okay. All right. I just wanted to understand. Okay. Councilmember Floreen -- on those
25 issues?

26
27 Councilmember Floreen,
28 Yes. I just had a math question. From what I gather, on page 9 it says that the Board of
29 Education's request was \$1,988,401,081. And so what the Committee is saying is
30 reduce that by \$6 million?

31
32 Council Vice President Knapp,
33 Correct.

34
35 Councilmember Floreen,
36 Subtract six from that?

37
38 Council Vice President Knapp,
39 That is correct.

40
41 Councilmember Floreen,
42 Okay. Just checking. Thanks.

43
44 Council Vice President Knapp,
45 Okay. Once you get to page 4, Essie's actually done a very good job with the Fiscal and
46 Legal Overview. One of the sessions we had really talked about State and Federal law



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1 and requirements – and then looked at Maintenance of Effort, State law as it relates to
2 Council's Budget Authority. And so there aren't a lot of specific pieces there that we
3 need to address at this point, but I would encourage my colleagues to take a look at that
4 because it really lays out well, I think, the role between the Board and the Council and
5 some of the actions that take place back and forth. And I just think it's a good place to
6 have a better understanding of that. If you go to page 9 and look at the Summary of
7 Major Changes where Ms. Floreen just was, it walks through some of the specific
8 requests. So the Board of Education has requested the \$1.988 billion. This amount
9 represents an increase of \$136.5 million, or 7.4 percent, over the FY07 approved
10 operating budget. And, consistent with other years, 88 percent of the Board's request is
11 for salaries and employee benefits, a total amount of \$1.74 billion. Increases in
12 employee salaries and benefits, including retirement benefits for current employees and
13 retirees account for approximately \$122.4 million, or 90 percent, of the requested
14 \$136.5 million requested increase. One of the things that's important to note is that
15 while we appropriate the total \$1.9 billion, the amount that actually is local tax supported
16 is identified here. So the Board has requested \$79.4 million in their increase from local
17 tax supported funds. And this total amount request in local funds is a 5.7 percent
18 increase over the amount of local funds approved in FY07. And so effectively, we would
19 be taking a \$6 million reduction from that. The already-negotiated agreements with
20 employee associations include a 4.8 percent cost-of-living adjustment for increase for
21 MCEA members, SEIU Local 500 members, MCAASP members and other
22 compensation changes equivalent to .2 percent for a total of 5 percent of FY08. One of
23 the things that's important to note is because of the various formulas that the Board and
24 the School System have to undertake, they actually do a zero-based budgeting each
25 year. And so before anything gets started, there's \$4.8 million worth of reductions in
26 efficiencies. And once you take out the one-time formula items associated with lower
27 enrollment and other efficiencies, their total reduction from last year's budget -- before
28 they even get started with this year's budget requests -- is \$10.8 million.

29
30 Council President Praisner,
31 I have a question about that.

32
33 Council Vice President Knapp,
34 Sure. Obviously, then, you're still doing zero-based budgeting. Are the details of that
35 process of the zero-based budget, are those documents given to the Office of
36 Legislative Oversight, the County Council, and OMB?

37
38 Marshall Spatz,
39 Actually, we've shared the budget process with OLO, including the budget guides which
40 are the internal documents that –

41
42 Council President Praisner,
43 And OMB? And our new Council Education Staff would then get a copy of that as well?

44
45 Marshall Spatz,
46 Correct.



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Council President Praisner,
Okay. Thank you.

Council Vice President Knapp,
Okay? Improvement initiatives account for approximately \$12.1 million of the requested budget, including an additional 128.9 positions. These initiatives include Middle School Reform, Hours-Based Staffing, and continuation of Elementary Assistant School Principals. The average cost per student for FY08 is \$13,836, an 8.8 percent increase over FY07 amount of \$12,718. This includes only the cost of students in kindergarten through grade 12 and excludes debt service and enterprise funds to do that calculation. The Board's request adds a net of 107 full time equivalent positions in FY08. In comparison, the FY07 request added 546 full time equivalent positions -- so a net of 107 for this coming year in the request.

Councilmember Leventhal,
Can I ask a question on that?

Council President Praisner,
Yeah. Go ahead, George.

Councilmember Leventhal,
Do we have -- in this lengthy packet which I haven't read all of -- do we have a description, perhaps, by category of where these full-time positions are added? Is that in the packet?

Council Vice President Knapp,
We do.

Essie McGuire,
Yes, and I'll look up the circle numbers for you.

Council Vice President Knapp,
If you look at 20 --

Councilmember Leventhal,
Those are new initiatives. Do we have a description of the new positions?

Council Vice President Knapp,
They're actually captured, if you walk through each of the offices.

Councilmember Leventhal,
If you want to proceed, Mr. Chairman, while Essie's looking, she can --



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1 Council Vice President Knapp,
2 Right. – Did you have a question, Mrs. Praisner?

3
4
5
6
7 Council President Praisner,
8 No. That's all right. I'll get back to it later. George, your light's still on. Do you want to
9 wait, and then –

10
11 Councilmember Leventhal,
12 No. I'm just -- when we're ready for the answer to that question –

13
14 Essie McGuire,
15 I'm sorry. Actually, I do have that. The table five on Circle 36 shows the net changes in
16 positions by category of position. These are not State categories -- these are categories
17 of positions that the School System uses. And that table is on Circle 36.

18
19 Council President Praisner,
20 That's not, I think, what Mr. Leventhal was looking for.

21
22 Essie McGuire,
23 Oh, I'm sorry.

24
25 Council President Praisner,
26 He's looking for full time equivalent positions, and I don't think this shows it. It just
27 shows positions.

28
29 Marshall Spatz,
30 Those are the 107 positions on that chart.

31
32 Councilmember Leventhal,
33 Okay. So could you explain to me then, Marshall, on Circle 36 under Administrative –
34 we have what I guess is a million dollars change? How many positions is that?

35
36 Essie McGuire,
37 These are positions. That's for one position.

38
39 Councilmember Leventhal,
40 Oh, it's 1.0 positions.

41
42 Marshall Spatz,
43 Right.

44
45 Councilmember Leventhal,



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1 Okay. So just walk me through this. So 1 administrative position was added; 8
2 professional positions were added; 17 principals or assistant principals were added. Am
3 I reading this correctly?

4
5 Marshall Spatz,

6 Yeah.

7 Councilmember Leventhal,

8 And so all of those together add up to 107. Okay. Thank you.

9
10 Council President Praisner,

11 Okay. Is that the answer? I actually don't find this very useful because they're full time
12 equivalent positions; they aren't actual positions. So it's how many people, rather than
13 the equivalent of position, because people are what you pay benefits on; and people are
14 what you have to keep track of. So saying full time equivalent may be five people who
15 make up one full time equivalent position. So trying to calculate the cost of benefits and
16 the cost of those positions -- this chart, I don't think, is very helpful. And I think we've
17 had the conversation in the discussion in the Management and Fiscal Policy Committee
18 of wanting to see the information by total positions, not by full time equivalents. So I
19 would hope that by September or October or so, by the latest, we'd have the information
20 by every position in those categories -- not by full time equivalents.

21
22 Marshall Spatz,

23 Mrs. Praisner, this is one of the issues that OLO brought up in their Fiscal Indicators
24 Report. And that is one of the fiscal indicators that we're going to be developing -- that
25 information.

26
27 Council President Praisner,

28 Well, but I think it's very critical that we get it early in the process. So if the fiscal year
29 starts in July, we should have it by September at the latest -- related in that way. And I
30 might as well add what I'm interested in looking at. I want to get monthly, with the
31 financial report, a status report on positions. I want to know how many positions -- not
32 full-time positions -- but positions; how many of them are filled; and how many of them
33 are not filled; and how many of them are filled by long-term subs or retired personnel
34 where there isn't a cost of benefits, so you have an assumption that there is some
35 savings associated with that because it's not the equivalent of the full position. The
36 other thing I want to know is what assumptions are we making as to entry level for all of
37 these positions? Because certainly classroom teachers -- many of them come in as
38 starting teachers obviously. But not all of them, depending upon what they're teaching
39 and how hard it might be to get them. You may be offering them; or they may be
40 experienced, and you're offering them at a higher level. But administrator positions --
41 when we get the personnel complement for the County Government, you can see what
42 the salary assumptions are, and then you can subtract out the lapse. I think each
43 monthly financial report should provide a status of that information.

44
45 Council Vice President Knapp,



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1 And I would just comment, we've been trying to wrestle with the same thing with County
2 Government as well just as their budget requests come over. And it's a tough thing to
3 get an apples to apples comparison. So we need to work on that for both Montgomery
4 County Government as well as MCPS.

5
6
7
8
9 Council President Praisner,

10 Right. What we also get from the Montgomery County government is a Position Report,
11 which is the status of positions that are new and the status of changes -- so where
12 positions have been eliminated and where positions have been added. So I'd like the
13 monthly position report for MCPS as well. Councilmember Elrich.

14
15 Councilmember Elrich,

16 I have a question about probably my least favorite positions in the budget, and that's
17 Security. And I say that because when I graduated Einstein, I didn't know what a
18 security person was. And forty years later, we're going to have 228 security people in
19 our schools. And I think that's a really unfortunate commentary on where our schools
20 are. And my question is, we're looking at, this year, 28 additional security people. That's
21 almost -- well it's a 14 percent increase, I guess, over where we were last year. Where
22 are these other 28 people going? And is there any other way -- I mean are we really
23 down to having to put these many security people in our schools?

24
25 Marshall Spatz,

26 Most of these positions are really a realignment from other positions. In the past, high
27 schools had student monitors which have been responsible for in-school suspension
28 programs. High schools were given the option this year to move those positions into
29 security positions, and then have the security team in general be responsible for
30 supporting the instructional staff in the monitoring of the in-school suspension program.
31 And all of our high schools have converted their student monitors into security positions.
32 The balance of the positions are the result of Clarksburg High School and Northwood
33 growing. So we've added some additional positions there. But most of the positions are
34 just a realignment from the student monitor to the security assistant positions.

35
36 Councilmember Elrich,

37 But should they show up then -- if this is 28 positions and most of them are
38 realignments, shouldn't there be a corresponding reduction --

39
40 Marshall Spatz,

41 They're netted out in some other positions further up on the chart.

42
43 Councilmember Elrich,

44 I'm looking. I'm seeing 14 classroom teachers; that can't be them -- 3 Special Ed
45 teachers, that can't be them. And 2 media specialists --
46



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Larry Bowers,

It's the aides and assistants. It's offset in aides. We've added a number of positions in there as a result of Special Education changes and initiatives, and so it's really an offset. That's a net number. So there's, again, an increase of 30-some paraeducators, and then the offset of the monitors.

Councilmember Elrich,

So are you saying we actually are adding 52 aides and assistants, but you did that by moving 28 into the Security category?

Marshall Spatz,

It's not quite 28, but something along those lines.

Larry Bowers,

It's probably closer to 45 increase of paraeducators and the reduction of a little over 20.

Councilmember Elrich,

I'll just say that somebody asked at one point how would we know if we were successful in our schools with what we were doing. And one of the measures I would use is the day we pull the last security person out of a high school is a way of measuring that we're successful with what we're doing. This is just an extraordinary expense which really doesn't get the kids where they need to be. This is like a policing activity we're doing in the schools. I just think it's unfortunate we're spending that much of our resources doing something that we always didn't have to do. And I just think it's unfortunate -- maybe necessary, but it's not the happiest way to spend money.

Council President Praisner,

Okay. No more lights.

Council Vice President Knapp,

Okay. On page 11, the County Executive's recommendation was a 6.3 increase, or a reduction of \$20 million, from the Board's requests. Moving on to page 12, it's an Overview of Revenues and Expenditures. Much of this we've already --

Council President Praisner,

Sir, I have a question.

Council Vice President Knapp,

Sure.

Council President Praisner,

It says of the Federal government revenue, that the assumptions may change as MCPS receives final notice from both the State and the Federal government. Obviously, the numbers that we have are from your budget. What's the latest?



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1 Marshall Spatz,

2 The latest is we received information from the State yesterday afternoon on both State
3 and Federal information. In fact, they're holding their State meeting today as we speak.
4 Now, the main –

5
6 Council President Praisner,

7 Oh, you have to be in two places, Marshall.
8

9 Marshall Spatz,

10 That's right. The main change is that we got a major increase in Title I money of \$2.8
11 million. And the Board will receive a recommendation from the superintendent at its next
12 meeting a week from Monday on those monies. So we are planning to amend the '08
13 budget to take into account those additional monies. Now, because of Title I rules --
14 very strict rules -- that doesn't play into spending affordability because all those monies
15 must be used in the Title I schools for additional resources. So that doesn't really play in
16 because of supplantation rules. Now, on the other Federal revenues, there are some
17 ups and some downs.
18

19 Jerry Weast,

20 I think just for clarification out there – go ahead – and for the general public who are
21 watching, that is for children who are impacted by poverty. We use all these acronyms.
22 And what that is, is an indication of what we were telling you is accurate. You have
23 3,200 more poor children; and the Federal government is going to kick in a little bit more
24 per child on that.
25

26 Council Vice President Knapp,
27 Mr. Leventhal?
28

29 Councilmember Leventhal,

30 Yeah. Thank you, Mr. Chairman. Now that we're talking about overview of revenues and
31 expenditures, I just want to make an overview comment. I'm Chairman of the Health and
32 Human Services Committee. And the Health and Human Services Department has a
33 budget of about \$256 million. There are a lot of needs in the community -- vulnerable
34 elderly; homeless people; many, many, many uninsured people who need healthcare;
35 dramatic mental health problems that no level of government is solving. And I would
36 guess -- this is not an exact number -- but if we had a budget of \$375 million, it probably
37 wouldn't be enough to address all the needs in the community. But what happens is, is
38 that the Health and Human Services Director works for the County Executive. And OMB
39 every year has got to carefully estimate what they think the revenue stream is going to
40 be. And so each year, the Health and Human Services Director has got to say, "No," to
41 the service branches within the Department on a whole lot of things. And in our
42 Committee every year, we look at waiting lists for services. We look at desperate needs
43 – I mean very critical needs -- that we just can't meet -- every single year -- because we
44 are constrained by the need to pay the bills at the same time as we are deciding how
45 much money will go out the door. When I chaired the Council, I said, "What constrains
46 the School Board?" I mean, they could ask for – you know -- they've got a budget of --



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1 at that time it was one and a half billion. Now it's about \$2 billion. But they could ask for
2 \$6 billion, \$7 billion. What stops them? And the answer was, "Well, no. The School
3 System works very closely with OMB. And they have a sense. They forecast. They
4 know how much is coming in. And so they try each year to project the revenues coming
5 in and to be within reason, within a reasonable forecast of what might happen in the
6 next year. In yesterday's paper -- I don't know whether it's correct or not. None of us will
7 know for several months. But the County Executive was quoted as saying that we're
8 going to be facing a shortfall overall of about \$260 million just to meet current services
9 for the FY09 Budget. And I guess what I am saying here is a plea to the Board --
10 President Navarro or whoever may succeed you as President for the coming year -- and
11 Dr. Weast to get back to a system where we're really very carefully forecasting how
12 we're going to pay the bills. Because I'm concerned that we had a disconnect
13 somewhere within the County Executive's Office somehow in terms of what OMB
14 believed the revenues were going look like and how we were going to pay for it, and
15 what the Board sent over. And none of us appreciate the drama. Carver Building's not
16 that far from the Executive Office Building; and it shouldn't be that difficult to forecast
17 where we really are likely to be in November and again in March. And so this is just a
18 plea for '09 that we not find ourselves again in a situation where we, the County Council,
19 are faced with this enormous scramble to try and match revenues to expenditures when
20 we all have access to the same information. Some of it is speculative. We don't know
21 what the General Assembly will do from year to year. But we make certain assumptions
22 based on the time we are on the calendar. We have certain information about the
23 economy; obviously, it's changing. Every single one of us up here supports the School
24 System and wants it to succeed. But every single one of us suspect that there was more
25 Sturm und Drang than there really needed to be -- that this could have been a less
26 problematic process if there had been more communication from month to month. And
27 so for '09, let us have a better sense when we send over the projected expenses of
28 what the projected revenues are likely to be. I appreciate your comments, Dr. Weast,
29 about academic sustainability. But that does not discount the importance of financial
30 sustainability. They both are important. Just from the Chair's perspective, I would let you
31 know that I feel very strongly the same -- that the level of communication that occurred
32 that created a fair amount of discourse out there in the world I'm not sure was
33 necessary. I think that we can, over the coming year, have a better line of
34 communication so that we're all talking more from the same page than perhaps it would
35 appear people were at the beginning of this year. And so I know that we as a
36 Committee will be doing that, and hopefully as a full Council -- and continue to try and
37 bring the County Executive into that discussion as well because I think that's important.

38
39 Council President Praisner,
40 Councilmember Elrich.

41
42 Councilmember Elrich,
43 I'm going to piggyback on the last two remarks. And I appreciate the time we all have
44 spent over here. But I think everybody needs to realize that we've pretty thoroughly
45 tortured every department that's come over here. And that the question we've posed to
46 people repeatedly is, Are you sure what you're doing is working, or should you be



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1 replacing something you're doing? Should you be reevaluating what you're doing? How
2 does this all fit together? And I guess that's the same question, in line with George's
3 comments, I would ask every department and every agency to do – is to take this next
4 year to really thoroughly evaluate -- and I'm not saying it in a judgmental way – but what
5 works and what doesn't work. But to recognize what George says is the likely fiscal
6 situation we're going to find ourselves in next year. And that what we're asking you to do
7 is the same thing we're asking everybody to do – whether it's providing healthcare to
8 kids that don't get healthcare or ensuring that seniors don't get left behind. I mean I
9 could make a list of bleeding heart cases all over the place – you know what it looks
10 like. But we're asking everybody to look really hard at what you do and make sure that
11 what you do is the most effective expense of dollars. And I would just hope that this next
12 year finds us in a more collaborative place. As a new person on this Council, dealing
13 with a \$4 billion budget in a two-month cycle, with the 500 pieces of paper that Essie
14 generated -- and relying on a few member committees – none of us could delve into
15 every decision that every Committee has made – is really, really overwhelming. And I
16 think there's a real need – and we've talked about this, again, with the other
17 departments – to make the budget cycle longer than two months and to involve people
18 in discussions for longer than two months. And I don't mean the formal process, Nancy,
19 but I mean a discussion about what priorities are and how things are operating so that
20 we really have – when we arrive at the moment when this thing actually lands on our
21 doorstep from the Executive, from you, or wherever – that we've all been more engaged
22 than we've been historically. I think that would help us get to a better place a year from
23 now. I think it's critical that if this is going to work, that we all are are pulling together in
24 the same direction next year.

25
26 Nancy Navarro,

27 I just want to respond as President of the Board that as you mentioned, every agency
28 has been tortured. Well, let me tell you, as Board members we've been tortured, if you
29 will, twice. Because we go through this exercise of listening to the community and really
30 having to face all the very dramatic issues and requests that come to us. And I have to
31 tell you, Mr. Leventhal, that this was truly a budget where we had very, very, very
32 difficult conversations as Board members – because we all came in really bright-eyed
33 after an election, wanting to truly address very many competing initiatives and trying to
34 address many issues out there in the community. And I can go through many lists. And
35 just to give you an example, instead of adding paracommunity coordinators, which
36 every single cluster came and testified that they needed them, we made a decision to
37 ask the staff and the administration to take a look at how are we utilizing our parent
38 outreach positions -- since we're reported that we have over 100 FTEs for example – to
39 really take a look at what you were talking about – how can we realign and to figure out
40 ways to respond to these growing needs. So I wanted just to say to you that it was a
41 budget that we sent over to the Executive that was truly bare bones in terms of the
42 wishes and the desires of the community that comes to us and tortures us, if you will.
43 And we sit there gladly listening. But we are very mindful of what's coming next year.
44 And we have, from the very beginning, always – I know myself as President, Ms.
45 Brandman, and the rest of the Board reached out both at the Executive and to many of
46 you to make sure that we are continuing this dialogue and that we're able to work on the



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1 same page for the same issues. And the issues that you described in Health and
2 Human Services certainly are issues that show up on the doorsteps of the schools
3 every single day. So we're very mindful. And I am adamant about the fact that we need
4 to work together -- not looking at figures and budgets as one taking from another -- but
5 what are our outcomes -- fully, wholly, holistically speaking -- for our children and youth
6 here in the County. So I pledge to work as closely as possible with you going forward to
7 really address many of these issues. Thank you.

8 Councilmember Leventhal,

9 Well, if our goal is not to have all of these worthy programs compete against each
10 another, can we once and for all bury this statistic that says whether the size of the
11 school budget has increased or declined as a percentage of the overall County budget?
12 Can we not have that conversation again?

13
14 Nancy Navarro,

15 I don't think you've ever heard me say that to you --

16
17 Council President Praisner,

18 Well, it's in the communiqués though.

19
20 Nancy Navarro,

21 It might be. But I guess what I could say to you is that people float that question out very
22 many times and perhaps people expect a response. But I can tell you, philosophically,
23 that I want to make sure that we're looking at our general outcomes. And so that is just
24 something that I feel very strongly about, and I know the Board does as well. Have there
25 been probably questions in the public in terms of facts and a desire to know what the
26 answer is? Perhaps. But I don't think it comes from a place of trying to compete and sort
27 of slice children. You know, we're in this together. And I think academic success is very
28 much linked to general success out in the community, and we need to really work
29 together on that.

30
31 Councilmember Leventhal,

32 We want to work with the Board. I certainly want to work with you. You're a good friend.
33 But I think that that suggestion came from a desire to convey that somehow the school
34 budget was decreasing and not increasing, and that is a false impression. So the idea
35 that the school budget was declining over the last few years, as a percentage of the
36 whole County budget, created -- I think -- a significantly misleading impression in the
37 minds of the people who heard it. And it was not well taken by myself and other people
38 up here. But if we can put it behind us for next year and keep working together, that's
39 certainly what I want to do.

40
41 Council Vice President Knapp,

42 Good. Okay. Quickly, to try and meet our time limits, the local dollars just quickly -- if
43 you look at 12 and 13 -- \$1.385 billion in FY07 to \$1.464 billion in FY08. We have an
44 increase in State dollars. Foundation Grant increased \$13.6 million. Limited English
45 Proficiency increased \$10 million, and increase for students eligible for FARMs



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increased by \$24.4 million Federal dollars. The request assumes essential level Federal funding, a slight decrease of \$271,000.

Council President Praisner,

I just want to go back because I was asking Marshall a question, and it related to State money as well as Federal money. And while I appreciate the Title I limitations, the question is, Is there any additional other money that can be used in the overall current budget number, not an additional budget number?

Marshall Spatz,

Right. The Federal government obviously is getting a lot stricter in terms of what you can do. We've been audited several times. And we've talked about this in the MFP Committee and the Ed Committee. We received the information from the Federal government -- or from the State about the Federal aid yesterday afternoon. And we're still analyzing it, but we should have that done fairly quickly. On a net basis, there are several hundred thousand dollars more in Federal aid. But the problem is, it's not evenly distributed. So we have to look in detail --

Council President Praisner,

Well, you need to tell us where that money is, in what category, so that we can incorporate that into our current revenue status before we do the final decisions about the Council's County piece of the money. If there's more State aid or Federal aid that isn't discrete, then that may help us with our budget reconciliation issues.

Marshall Spatz,

There's definitely no State aid. I mean the State aid did not change from the previous MSDE information that we had received.

Council President Praisner,

Well, to the extent you can get that information to Chuck Scherer and OMB as well, it will be very helpful as we try to add up all the columns.

Council Vice President Knapp,

As I think everyone is aware, from a Council perspective, that we have to appropriate in State categories -- which when the overflow was presented have very defined characteristics -- which may or may not make sense to those of us who are actually looking at program activities. So we had to try and go back and forth during the course of our Committee debates, so I just wanted to give people that advisement. But if you look at Circles 44 and 45, those are the definitions of the State categories which are, again, defined by the State. Moving ahead, just turning to page 17 to Enrollment Statistics -- we've already touched on this briefly. The Board estimates enrollment will decrease by 2,900 students from a projected number of 139,936 to 137,000. But we also are seeing an increase in ESOL students and students in poverty. And so we addressed that. And the demographics of our School System as a majority minority school district are at the bottom of page 17. And then I know that this has been an issue that a number of councilmembers have been interested in as it relates to the question



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1 that Mrs. Praisner asked earlier as it relates to lapse and turnover. Some of the
2 specifics as it relates to that are on Circles 53 and 54, but we'll continue to follow up
3 with that as positions –

4
5 Council President Praisner,

6 Yeah. I think we've made clear that what we'll see monthly will be that information. The
7 other issue that has come up is the timing of when the calculations are that there is
8 funds that will not be necessary. I am stunned that it comes so late in the process if you
9 have the enrollment numbers that you do. And I think that ties to the question of filled
10 positions and lapse over the year. So I would expect to see a better projection of the
11 overall budget earlier than after the County Executive's Budget is released in the future.

12
13 Council Vice President Knapp,

14 And I would hope we get that same update as we work through with County
15 Government as well since we found their numbers yesterday.

16
17 Council President Praisner,

18 But theirs are much smaller. They are much smaller. It's not \$6 million found by the
19 County Government.

20
21 Council Vice President Knapp,

22 \$4.2 million. But anyway. So going to the charts. So now we go to Funding by Office.
23 And we'll just go through each of the offices; and if people have specific questions – but
24 if you look at page 20, MCPS Budget Funding by Office, you see the actual budget
25 numbers associated with each of the offices -- which again is different from the State
26 categories, but this is how MCPS is organized. And then MCPS Positions by Office. And
27 so that kind of gives you the macro perspective. Going to page 22, we have K-12
28 Instruction/Office of School Performance. And this includes all elementary, middle, and
29 high school instruction.

30
31 Council President Praisner,

32 I don't want to take the time right now. But I want to better understand where we are in
33 the status on high school plus. And if you could get me a copy of the evaluation that
34 was done on the program as a pilot, I'd like to see that, please.

35
36 Council Vice President Knapp,

37 All right. So the key initiatives here, this is where the middle school reform initiative is –
38 the addition of 15 Assistant Principals at \$1.6 million and the addition of 16 and a half
39 Middle School Counselors. And so any questions on Office of School Performance? I
40 don't see any lights other than the one I asked and the copy of the evaluation.

41
42 Council President Praisner,

43 Oh, Mr. Berliner.

44
45 Councilmember Berliner,



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As I appreciate the increase in counselors, which I am fully supportive of, as set forth on Circle 36 – 21 workyears with respect to that – I just want to confirm that those numbers were provided to us prior to the budget working its way through. And can I get some confirmation that we're going to be able to hold to those numbers with the budget that we are currently discussing?

Jerry Weast,
If you accept the Committee report, yes, that's correct.

Council Vice President Knapp,
Okay. And if you follow – Essie's done a good job of putting additional supporting information that breaks down Elementary School, Middle School, and High School. Moving into the Office of Deputy Superintendent of Schools – small office. No new initiatives were recommended for this office at this time.

Council President Praisner,
Roger, do you still have questions? Oh, okay.

Council Vice President Knapp,
I see no lights. Office of Curriculum and Instructional Programs. This includes ESOL, Title I, Head Start/Pre-K, Career and Tech Ed, as well as a variety of other instructional programs. The initiatives here – support for ESOL students primarily is the big addition. And expanding online courses to high school students. No questions?

Council President Praisner, Where's the change in the way we're running high school -- the evening school program? Where does that appear?

Marshall Spatz,
That would be in K-12 instruction.

Council President Praisner,
K-12 instruction. And then where's the thing that shows – as far as –

Essie McGuire,
Mrs. Praisner, I think there may actually be an error in the packet on this item, and I apologize for that. It should show on pages 22 and 23, and I believe it does not.

Council President Praisner,
Okay.

Essie McGuire,
I'm sorry about that. It is –

Council President Praisner,
Again, I don't want to take the time today, but I want to understand the staffing and scheduling implications and also the implications from a student perspective of what this



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means – both as the time of the classes as well as availability of classes. So if you could provide that for me in writing, I'd appreciate it. Okay.

Council Vice President Knapp,

All right. Next is the Office of Special Education and Student Services. As I addressed in my opening remarks, there was a lot of discussion. I know the Board has had a lot of discussion. The School System has had a lot of discussion. We've met with a number of representatives of the Special Ed Committee, both as a committee and as individual councilmembers. And so there's an additional initiative of \$1.8 million to move to hours-based staffing, and there are a number of positions associated with that. We're going to continue to monitor that closely. Obviously, the issue associated with secondary learning centers is something we've all heard a lot about. And I think people want to make sure that both resources are there to fully address the changes in Special Education and to track the students as they move from fifth into sixth grade so that we have the right population that's been identified. And we're going to continue to work on that with the Board in the coming year.

Council President Praisner,
Councilmember Berliner.

Councilmember Berliner,

Dr. Weast, as I know, you appreciate more than almost anyone the issue of legal fees -- the use of legal fees. The contentiousness with which these issues seem to be fought out has been a source of great pain to many in the community. And there's a belief in certain quarters that the School System is incredibly aggressive with respect to these kinds of fights. I'm not in a position to judge whether it's true. But my question to you is whether or not you believe that there is a need to have a different relationship with this community that would lead to a less legalistic, less contentious – I've just rarely seen such bitterness that has been created. And so my open-ended question to you is, Do you have thoughts as to how you can transform this relationship with these people?

Jerry Weast,

I think the relationship has been long-standing, number one, which creates an issue -- when I look back in time – and two, hasn't gotten any better over time.

Council President Praisner,

I'm sorry, Jerry. What do you mean by long time? Twelve years? Eight years? Six years.

Jerry Weast,

I look back more than 12 years.

Council President Praisner,

Well, I go back quite a bit; and I think it's gotten worse.

Jerry Weast,



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No. I said it hasn't gotten any better over time.

Council President Praisner,

Well, but I mean that it's gotten worse; that's the problem.

Jerry Weast,

Yeah. When I look at it from a point of view, is that the numbers of children have gotten increasing and the number of desired out placements were at \$32 million for the outplacements. And a majority of our issues of contention come over an out placement of a student to an out placement. Those haven't gotten any easier, and they've gone up in numbers. And the cost is significant. The average -- according to your OLO -- is about over \$50,000. So it doesn't take very many outplacements to significantly change a budget. We do try to assure that those out placements are not only necessary, but can't be handled locally. And that is where their contention comes in. And we do everything we can -- and maybe we should continue to try to do more -- to try to work on those issues. But we do have a substantial number of them from this County compared to all others statewide. But this County also has a substantial number of requests for the out placement compared to all other counties.

Freda Lacey,

I would just like to provide a little bit of history. Back in the --

Council Vice President Knapp,

Dr. Lacey, just introduce yourself.

Freda Lacey,

Yes. Freda Lacey, Deputy Superintendent of Montgomery County Public Schools. Just to provide a little bit of history on the legal issues associated with Special Education. In the very early 90s, there was a freeze in Montgomery County. It was caused by Special Ed litigation. The feeling was that our legal expenses for Special Education were very, very problematic. And so there was a committee that was developed that really looked at the issues of litigation. Also at that time, I had an interest in it; and so my dissertation was on the impact of the Attorney's Fees Act in the State of Maryland. I looked at four school districts: Montgomery County, Prince George's County, Baltimore City, and Baltimore County. And at that time, the then Deputy Superintendent Kathy Gemberling was very concerned about Special Education litigation, and said, "What are we going to do about it?" At that time, I shared with her that that was my dissertation; and in looking at the four school districts, I had come up with some recommendations if she wanted me to share those recommendations with her. Of course, she said she did. As a result, we found out we had an enormous backlog of cases that needed to be resolved. We had no mediation being offered in Montgomery County. And so one of the first things we did -- we led the way in terms of the State in offering mediation to our families. We were the first school district to do that. We also had to bring on five law firms and just a number of attorneys to look at our backlog of cases, just to get them under control. We went from local level hearings and State level hearings to State level hearings. We have an Office of Administrative Hearings that provides oversight. So when we have



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1 mediation, we get administrative law judges from the Office of Administrative Hearings
2 to preside over those proceedings. And we encourage that. We don't want to go to due
3 process hearings because that's the first level. We want to mediate at the local school
4 level, and we have something in place to try to resolve handling these issues at the
5 local school level. When we can't, parents can request mediation centrally from our
6 central office. And we're proud of the record number of cases we're resolving through
7 two avenues: administrative hearings where we just look at the record and try to resolve
8 it, and through a formal process where we have administrative law judges that come
9 forward and try to resolve these cases very informally. Parents give; School System
10 gives. And then finally, if we can't do that, we have to go to a due process hearing.
11 Those hearings are presided, again, by administrative law judges. And so what we have
12 to do is we have to present a case -- and the parents present their cases. Sometimes
13 when you look at the legal implications of this because of the Shaffer case, parents put
14 there case on first. So if a parent puts on a case with an attorney for ten days, then we
15 have to counter that probably with eight, nine, ten days before an administrative law
16 judge that comes from that office I spoke to you about. And so a decision is rendered. It
17 is incumbent upon us to put on the best possible case, based on the interests of kids.
18 One of the things that happens is that when parents prevail in those hearings, if it's a
19 nonpublic placement, it's not for one year. It could be for 12 years, which would be an
20 inordinate amount of money to spend on nonpublic placements. But I think the system is
21 one that's fair. We no longer use five law firms and twenty attorneys. We had to do that
22 to get it under control so that we wouldn't have unduly expensive law process as we
23 move forward. Can we improve upon it? Yes, I think we can improve upon it; but we
24 encourage mediation.

25
26 Councilmember Berliner,

27 I would just say to you, based on what I've seen in the short time I've been on the
28 Council, I appreciate the background. And I would urge you to improve upon it. And as
29 someone who is an attorney and believes strongly in alternative dispute resolution and
30 mediation, I absolutely fully support that effort. And it's clear, more must be done. So I'd
31 just leave you with that thought and that request.

32
33 Freda Lacey,
34 Yes.

35
36 Council Vice President Knapp,

37 Thank you very much. Okay. Moving on. Office of the Deputy Superintendent for
38 Information and Organizational Systems. The big items here are the Financial
39 Management System, Phase II, and the final implementation of that, and the Kennedy
40 Cluster Project that we've previously discussed.

41
42 Council President Praisner,

43 Where does the Baldrige Program show up in the budget? Is it in this -- what budget
44 does it show up in?

45
46 Larry Bowers,



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1 Most of the dollars are in Office of Organizational Development.

2
3 Council President Praisner,

4 And does it show up as a line item? I couldn't find it anywhere.

5
6 Larry Bowers,

7 No. There's only a couple hundred thousand dollars that we have for training teams of
8 teachers, giving teachers time off to go to one of the quality academies. So most of it
9 shows up as subsidies –

10
11
12
13 Council President Praisner,

14 So can you break it out for me? And how do you calculate the staff time that would have
15 been spent on perhaps something else in that calculation? Can you do that too?

16
17 Larry Bowers,

18 Mm-hmm.

19
20 Council President Praisner,

21 Thank you.

22
23 Council Vice President Knapp,

24 Great. Thank you. Office of Organizational Development is where the professional
25 development pieces are managed. New initiatives here are components of other new
26 initiatives -- primarily in other offices: support for ESOL students, staff development
27 related to Special Education, and training of supporting services employees. There's an
28 additional three FTEs in that office.

29
30 Council President Praisner,

31 Yes, George?

32
33 Councilmember Leventhal,

34 It was recently announced that a new position had been created -- a Director of
35 Leadership Development. Can somebody explain what that position does?

36
37 Larry Bowers,

38 I'll try. It's really not a new activity. This person will be in charge of all of our peer
39 assistance and review panels, as well as the implementation teams for our professional
40 growth systems. We've actually had someone who's done this work for a number of
41 years, and he retired. This was Bob Bastress, who this year has agreed to stay on as a
42 consultant to, again, share the teachers PAR panel, the administrative and supervisory
43 PAR panel, and work with the implementation teams of all of them in the implementation
44 of our professional growth system. So it's a key part of our goal four in our Strategic
45 Plan and having that oversight and overview, including training – working with principals



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1 and training them and supporting them on the implementation of the evaluation system.
2 Our priority this year is going to be on Supporting Services -- Evaluation System and
3 working with principals on implementation of that.

4
5 Councilmember Leventhal,

6 I'm trying to understand what you just said, Larry. Do I understand you to say this was
7 an existing position and the incumbent left and the position was filled by a new person
8 and the previous person was brought back on as a consultant? So instead of one
9 existing position, we now have two people doing the same job? Did I follow that right?

10
11 Larry Bowers,

12 No. The position this year -- the services have been provided by a consultant this year.

13
14 Councilmember Leventhal,

15 Well, this year -- you mean in '07?

16
17 Larry Bowers,

18 '07. In '08, that's when Mr. Gainess will assume the position that is --

19
20 Councilmember Leventhal,

21 That had existed previously.

22
23 Larry Bowers,

24 There's an existing position, as well as resources this year from consultants, that we'll
25 use to fund it. Yes.

26
27 Councilmember Leventhal,

28 But the existing position had a different title?

29
30 Larry Bowers,

31 Yes.

32
33 Council President Praisner,

34 So I guess they abolished one position and created another.

35
36 Larry Bowers,

37 Realigned dollars to pay for this support. But, again, it's not new services that have
38 been provided. This is an ongoing key part of our professional growth systems and the
39 implementation of those professional growth systems. For instance, the person will co-
40 chair the PAR panel which meets every month. This is the panel that reviews those
41 teachers who have been underperforming and go in front of the PAR panel in terms of
42 their performance. So that's a key part of that and working with the implementation of
43 that program.

44
45 Councilmember Leventhal,



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Okay. I like plain English. I'm trying to understand in basic language. So what you're describing, I understand, would come under performance evaluation. But the position is called Director of Leadership Development. Those don't sound like the same thing. How would an average person understand the organizational chart -- which, by the way, I would like to see the organizational chart for this office -- understand what a Director of Leadership Development actually does?

Larry Bowers,

We'll share the job description with you which will basically outline everything that I have talked about. Leadership development is a key part of all our professional growth systems. And there are really many more components of our professional growth system than just the evaluation component. It's one of six components in terms of mentoring and development and career advancement for all of our employees. So this person is going to be responsible for all of those components. For instance, in the Supporting Services professional growth system, two of the priorities this year is through a mentoring program and a career development program. Those are two of the key initiatives. So this person will help in the oversight of those components. So it's just not evaluation. Evaluation is one component of assisting people in terms of their performance and effectiveness in their position.

Councilmember Leventhal,

Okay. Two more questions related. First of all, when the decision is made to take an existing position, phase it out, have the consulting services in the interim, bring in a new person for the new position, retitle the new position so it looks to the outside world -- and was in fact reported as though a brand new position in the Carver Building had been created -- who initiates that? How is that decision made? Does that come from your office? Dr. Weast's office? Is the suggestion from the School Board? What's the process by which that decision is made?

Larry Bowers,

The process normally is, again, through the budget process is the primary way in which we do that and offices coming forward with a recommendation -- a request -- for that position. So most of these requests come through individual offices through that type of process.

Councilmember Leventhal,

Who is in charge of the Office of Organizational Development?

Larry Bowers,

Jamie Virga is the recently-appointed Associate Superintendent for the Office of Organizational Development.

Councilmember Leventhal,

Okay. So Associate Superintendent Virga would say, "We think this is going to work for our needs in terms of staff development." And he would recommend it, through the



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1 chain, to Dr. Weast who would then propose it to the School Board in the course of the
2 budget?

3
4 Larry Bowers,

5 It would go through his superintendent to Dr. Weast, but yes.

6
7 Councilmember Leventhal,

8 How many layers are there between Mr. Virga and Dr. Weast? How many people do
9 you have to report to, to get to Dr. Weast?

10
11 Larry Bowers,

12 I report to Dr. Lacey.

13
14
15
16 Councilmember Leventhal,

17 Dr. Lacey's in between. Okay. Next question and I'll stop after this. Chairman Knapp,
18 when the HHS Department was before us, pointed out their central administrative
19 expenses – which were a lot of positions and a lot of dollars. And he very aptly
20 requested an organizational chart for those dollars. And I'd be interested in returning the
21 favor - if we could get an organizational chart for each of these offices identified here in
22 central administration. And then if I have further questions, we'll ask them.

23
24 Council Vice President Knapp,

25 Okay.

26
27 Council President Praisner,

28 Why are IT Specialists positions charged to instruction?

29
30 Larry Bowers,

31 These are user-support specialists that are assigned to schools. They maintain all of the
32 hardware and the infrastructure in schools.

33
34 Council President Praisner,

35 Well, I'd like to have a conversation at some other point in time as to where we're
36 placing positions as far as instructional positions. Because what I clearly want to know
37 is how many people work directly in a classroom with children versus others that may
38 be appearing in the instructional category. So at some point I would like OMB and the
39 Office of Legislative Oversight and our Council staff to begin to look at that issue.

40
41 Larry Bowers,

42 Then as you know, we follow the State guidelines in terms of categories –

43
44 Council President Praisner,

45 Yeah. But I also know that among the 24 jurisdictions, there are differences. Just as
46 there are differences as to what appears in the School System budget and what



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1 appears in the County budget, there are also differences among the categories as to
2 what shows up as administration and what doesn't. And that often people related to
3 where the people are physically located rather than what they're doing.

4
5 Council Vice President Knapp,

6 Okay. Moving along. Office of the Chief Operating Officer. Includes Transportation,
7 Plant Operations and Maintenance, Food and Nutrition, Utilities, and Facilities
8 Management The big new initiative here is floor burnishers for every school which is a
9 productivity measure that will assist our maintenance folks dramatically. Number 8,
10 Office of Human -- no. We got -- people want to know about floor burnishers. Uh-oh.
11 The floor burnishers are a big item.

12
13 Council President Praisner,

14 Nancy Floreen -- and then Councilmember Leventhal too.

15
16 Councilmember Floreen,

17 Thank you, Madame President. Is this a time to ask you about the fuel efficiency of
18 school buses? Is this the place? As you may know -- I know when I talk about the
19 capital program of acquisitions, but I want to know what the policy is in terms of
20 prioritization of fuel-efficient school buses and equipment generally, as well as the kind
21 of fuels. I know you're doing a biodiesel pilot. But can you talk a little bit about what
22 initiatives the system has underway in terms of addressing this issue? As everyone
23 knows, school buses are significant contributors to our air quality issues, as well as to
24 some of the global warming issues as well. And we're doing a fair amount of DPWT in
25 looking at this issue. Mr. Berliner is leading the charge in across-the-board initiatives in
26 the County, and we'll be working together on leading the region on that issue. But tell us
27 where you all are with respect to fuel economy prioritization and clean air management
28 for the fleet.

29
30 Jerry Weast,

31 Just as a general overview, they get very poor gas mileage.

32
33 Councilmember Floreen,

34 Yes, we know that.

35
36 Jerry Weast,

37 Just as a general overview, there's probably not a week that goes by that people aren't
38 requesting more buses rather than less buses. So we already have one of the largest
39 fleets in the country.

40
41 Councilmember Floreen,

42 How many buses do we have?

43
44 Jerry Weast,

45 1265 -- and I believe that qualifies us for the ninth largest fleet in the country. And we
46 have the fifth most efficient fleet in the country. But unfortunately, those big buses --



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1 because of the start and stop -- that efficiency is not rated on gas efficiency. That is
2 rated on per pupils carried. Unfortunately because of the start and stop, and many of
3 these buses are up in age, their fuel economy is of question. And their pollution is
4 significant. And so what we are trying to do always is try to figure that out and how to
5 space that into our capital. One of our problems becomes the ever-increasing problem
6 of where to park them so we can get the most efficiency out of them -- and how to stage
7 them in because trying to run that many buses for 199 schools in this level of traffic is
8 problematic. And then we're having to extend hours for school days and activities and
9 put on more buses there. And there's ever-increasing pressure on us brought by
10 neighborhoods with regard to -- again it gets back to, Marc, what you were talking about
11 -- safety -- increased safety concerns because of the issues. So these are very
12 problematic. Larry will be happy to fill you in now on some of the strategies that we're
13 trying to use to one, make these buses more efficient and effective -- but also try to deal
14 with the pollution issue because I'm extremely concerned and aware of that issue.

15
16 Larry Bowers,

17 Just looking at vehicles other than buses, we're looking at a strategy that we will begin
18 to purchase fuel-efficient vehicles. And so that's one of the strategies.

19
20 Councilmember Floreen,

21 What types of vehicles? I mean do you have a -- We don't have to go into all the details
22 here. I think perhaps a joint Committee conversation on this would be productive. But
23 generally speaking, you're looking at more fuel-efficient vehicles. Well, yeah. That's all
24 you can buy.

25
26 Larry Bowers,

27 In terms of the buses, as Dr. Weast said, there aren't a lot of strategies. Idling is the one
28 big thing that we continue to work with our bus drivers to make sure that they're not
29 idling their buses to save dollars. We have been fairly aggressive in looking at ways to
30 utilize types of fuels that are friendlier to the environment. We've gotten some
31 recognition of some grants that we actually pursued and got some funding for to
32 introduce some different strategies. We are looking at the biodiesel as a pilot at the
33 Bethesda Depot. And the Board just approved the purchase of the biodiesel fuel. So
34 those are all things that --

35
36 Councilmember Floreen,

37 How long will the biodiesel pilot go on for? When will it actually begin?

38
39 Larry Bowers,

40 Well, we're hoping to begin it this summer.

41
42 Councilmember Floreen,

43 This summer? And that will serve how many vehicles do you think?

44
45 Larry Bowers,

46 There's about 180 vehicles at the Bethesda Depot.



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Jerry Weast,

We're caught in between, and I think many people are trying to experience the biodiesel is one, the availability of the product and the mix of the product. Because the product is affected by cold weather.

Councilmember Floreen,

Right. I know. So you have to adjust the percentage.

Jerry Weast,

So you have to adjust it. But there's also filters and maintenance kinds of issues that go with that. Because as you start using a different product -- we're using low-grade sulfur right now -- you then have to change filters. And then you've got mechanical expenses. And so we're trying to figure all that out. But we are very welcoming to come over to your Committee and talk these things through and keep working on it.

Councilmember Floreen,

I think we need to do that so that we can make sure that your efforts are in sync with what we've told the County staff. And that also applies to administrative-type vehicles and the like. They're easy. You don't need any SUVs. Okay.

Council Vice President Knapp,

Good. Mr. Leventhal.

Councilmember Leventhal,

I appreciate Ms. Floreen's questions about vehicles, and I agree with them. The other hot topic that we hear from our constituents about in this issue area, Mr. Bowers, is school lunches. And just very briefly -- I don't need an answer now -- but I know you're aware of a great deal of discussion among parents -- a lot of concern about menus, whether or not their content may be healthier than fast food restaurants, the nature of the menu tends to replicate fast food restaurants -- so that even if you're eating a lean hamburger on a whole wheat bun, you're still encouraging kids to have hamburgers several times a week. And I know you've heard these concerns, but I'm in close contact with a lot of constituents around the County who are interested in more fresh fruits, vegetables, and menus that don't closely replicate fast food menus -- not simply giving children what they want -- because if you gave my 8-year-old son what he wanted, he would eat ice cream three meals a day which we don't want him to do. So trying harder to put in place a menu regime for healthy living throughout life. And what I wanted to share with you, Larry, and with you, Dr. Weast, is that -- and I'll show you this link -- the Physicians' Committee for Responsible Medicine recently came out with a national report card of 20 school districts around the country. Fairfax County got an A; Montgomery County got a B. I knew that would make you unhappy, and I wanted to let you know that.

Council Vice President Knapp,

The gauntlet has been thrown down.



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Councilmember Leventhal,
So as with the biodiesel which we know is –

Councilmember Berliner,
Arlington County is using biodiesel. Okay. If Arlington's using biodiesel and Fairfax has
got better food, then –

Councilmember Leventhal,
So it can be done -- it can be done.

Council President Praisner,
But we won't have trans fats. (Laughter)

Council Vice President Knapp,
Thank you, Mr. Leventhal. Office of Human Resources Budget. The only new initiatives
here are strengthening programs to certify all teachers as highly qualified. When the
Committee went through the department-by-department discussion, I think everyone
was quite taken aback at the level of – I think you know it, again, but this is a scale
issue – hiring nearly a thousand employees each year out of this office. It's – 2,000
employees – sorry, I was even off there by a factor of 2. So 2,000 employees a year go
through this office on a budget of about \$7 million, which is pretty impressive. Questions
on Human Resources? I don't see any.

Councilmember Leventhal,
Just a quick question. I was interested in the answers to my questions earlier about
leadership development, organizational development, staff training. At some point I'd be
interested if the Committee looked at if there's duplication between the Office of
Organizational Development and the Office of Human Resources. I'm just noticing here
that we're strengthening programs to certify all teachers as highly qualified. That sounds
somewhat related; I'm trying to understand the management jargon involved here. But
are we taking a look at overlap or duplication between these two efforts?

Dr. Weast,
Yes. And you're dealing with there with a federal title – “highly qualified” – which is
different than what we're trying to do. We're trying to be highly effective.

Council Vice President Knapp,
Is it clear now?

Councilmember Leventhal
No? Okay.

Council President Praisner



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1 It's like sustainability.

2
3 Council Vice President Knapp,
4 It's all the context you provide.

5
6 Council President Praisner,
7 It's highly, highly. Okay?

8
9 Council Vice President Knapp,
10 Next is the Department of Communications which is a newly-reorganized department.
11 Probably one of the most significant elements here is the new initiatives put in place: the
12 new Copy Plus program which creates centralized copy services that reduces time for
13 school staff throughout the County. And that was pretty impressive to get the description
14 of how that works and how it does actually reduce costs and time for teachers actually
15 within individual schools. I see no lights. The final office is the Board of Education and
16 Office of the Superintendent. The Board's amendments include one initiative for its
17 office, and a total of \$71,000 for staff support for the Board of Education, which is
18 consistent with a number of discussions that we had last –

19 Council President Praisner,
20 I just want to say I fully, fully, fully, fully, fully support that position. (Laughter) I fully, fully
21 highly, highly support this position.

22
23 Council Vice President Knapp,
24 Then just the final piece for my colleagues to reference on page 56 – Recent Funding
25 Patterns. Essie's walked through just the various puts and takes over the last few years.
26 And I addressed some of this at the outset -- the various reductions that MCPS has
27 taken – both as a result of its Program Efficiency, Abandonment and Redirection or
28 PEAR process, as well as the zero-based budgeting. If you look at -- just on 57 -- over
29 the course of the last four years, in FY04 the Council reduced the budget by \$14.3
30 million as we did across County agencies, looking at general wage adjustments. We
31 reduced the budget in FY05 by \$2.4, and FY06 by \$5.6 million. And as a result of
32 looking at pension adjustments last year, it was increased by \$11.7 million. And those
33 outline most of the pieces that are in the budget. We could obviously spend a long time
34 going through a lot more detail.

35
36 Council President Praisner,
37 There is a light on. So let's turn to Councilmember Elrich.

38
39 Councilmember Elrich,
40 So for where we're supposed to be, is there going to be white smoke blowing out of the
41 chimney from this building? (Laughter)

42
43 Council President Praisner,
44 Not until Thursday. Nothing is done until Thursday, so don't anybody walk away today
45 thinking it's over. Nothing is over until Thursday. And then nothing is really, really over
46 until the following week because OMB and Council staff have to get their green



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eyeshades out and put their green sleeve guards on and make sure that numbers add up. And nothing is final until then. I want to make sure everybody understands that.

Council Vice President Knapp,
Thank you, Madame President.

Council President Praisner,
No smoke -- black or white.

Council Vice President Knapp,
Thank you, Madame President. What I want to try and do right now is just to turn to either of my colleagues -- who have been quiet relatively -- and just thank each of them again -- Mr. Andrews for getting up to speed on a new Committee -- Ms. Ervin for bringing her expertise from the Board of Education -- and just see if either of them has any brief remarks as we conclude. Mr. Andrews.

Councilmember Andrews,
Thank you, Mr. Chairman, for the process that you followed in the last few months in reviewing the budget. There's been a lot of focus on different aspects of it: good discussion; a lot of scrutiny, which is what we should do and what we attempt to do with every budget that comes before us. There's no question up here that commitment to public education is one of the most important things we do in order to provide all the children in this County with a great opportunity to achieve their potential. The thought I would like to leave people with is this. This is not a tough year. Almost every department's budget is going up by about twice the inflation rate. And that is different from many other places in the country and in the region. So it's a pretty good year in terms of being able to provide the resources, the funds that will help us achieve the goals in education and public safety and health and human services. It's a good year. And I think that's important to underline. Whether next year or the year after will be as good is certainly up for question. We know the State is looking at a lot of cuts. And they make take some of that out on local governments. We don't know if revenues will continue to be as strong as they have. So we should recognize that these are still good times. And we've been able to make very substantial investments in this decade in a number of areas -- including in the School System, particularly in class size reductions in the early grades -- that I think have made and will continue to make a lasting difference. The School System is going to receive -- I think it's fair to say -- at least 99 percent of its requests; and that's pretty good. So I think we need to put it in perspective. There's been some talk this is a tough year. Occasionally we hear testimony -- we hear testimony a lot -- but occasionally, people testify difficult year, tough budget -- and, yes, we always turn some people down. But by and large, we're looking at double digit -- I'm sorry, increases that are double the inflation rate in almost every agency. And the only way that that can be sustained is if we continue to have careful scrutiny and good revenues. And part of that is dependent on revenues from other people. And that is the least of which we control. We can make efforts, and we all



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1 need to make strong efforts in the next few months in the State. I know Ms. Praisner will
2 continue to remind us about the importance of working hard at the State level to ensure
3 that Montgomery County receives its fair share. And that will be especially important in
4 the next year given the State's deficit. But let's put in perspective what the increases are
5 proposed to be, likely to be, given where they are now. And remember that it's a pretty
6 good year.

7
8 Council President Praisner,
9 Councilmember Ervin.

10
11 Councilmember Ervin,
12 I wasn't going to comment yet because I know we're not done, and we have about
13 another week to go. But I just wanted to take this opportunity to say how much I
14 appreciate the collaboration between the Board of Education and the Council –
15 specifically the Board of Education and the Council's Ed Committee. We've met many
16 times, and Mrs. Navarro has attended, I think, all but one of those sessions. So I really
17 appreciate knowing what it was like to be on the other side of the street through the
18 budget process. So I really do appreciate all the hard work that went into this budget.
19 And I am anticipating that we'll all be really pleased with the results. And so I'll reserve
20 my comments until we get there.

21
22 Council President Praisner,
23 Okay. There are no other lights. Vice President Knapp.

24
25 Council Vice President Knapp,
26 Okay.

27
28 Council President Praisner,
29 So we are done with the Committee recommendations at this point. There are, as I said,
30 still outstanding issues. So there are funds on the reconciliation list and still some
31 outstanding issues as to calculations and categories. I want to be clear that the
32 questions and information that I've asked for, I want on a monthly basis as far as the
33 positions. And also, I would urge you to do a better job in your financial reports of
34 projecting surpluses earlier than this chronic pattern of them coming in in April -- after
35 the County Executive has identified his budget. If you never fill those positions, if
36 enrollment doesn't come in the way projected, then that should be showing up in
37 September, October, November, December -- not in April. So we are in recess. We'll
38 come back at 1:45. Thank you.

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1 Council President Praisner,

2 I think we will begin a little late and with the first item on the Agenda, which, I believe is
3 the Board of Health. So we are meeting as the Board of Health and I would ask Dr.
4 Tillman to join us at the table and anyone else you would like for our briefing to get our
5 semiannual briefing from the County's Health Officer. I don't know if our Chair of HHS
6 wants to make any comments as well. George?

7
8 Councilmember Leventhal,

9 Yes, thank you very much. We've have had a number of briefings on the issue of
10 preparation for pandemic. We understand that this is a primary preoccupation for our
11 Homeland Security Department as well as our Health Services Branch in the
12 Department of Health and Human Services. So we look forward to that presentation.
13 We've had a long morning, Dr. Tillman, so, you know, be merciful.

14
15 Dr. Ulder J. Tillman,

16 I will.

17
18 Councilmember Leventhal,

19 And then a number of the issues, a number of the other issues I think Councilmembers
20 have been quite recently well briefed on because of our delightful book budget
21 discussion yesterday. So we appreciate the work you're doing and your leadership in all
22 these areas.

23
24 Dr. Ulder J. Tillman,

25 Good afternoon. I'm Dr. Ulder Tillman, the County Health Officer and Chief of Public
26 Health Services in the Department of Health and Human Services. I do want to give you
27 my semiannual briefing and actually it's not as onerous as it looks because I was just
28 adding some of these slides for background because I understand that some of you
29 were not sitting as members of Board of Health when I last gave a presentation. In
30 terms of avian influenza and pandemic flu and our preparedness around that, let me say
31 that there is no assuredness that the next pandemic would be caused by the avian
32 influenza which is a virus affecting birds in Europe and Africa and some other
33 continents. But this is the one that the Centers for Disease Control and Prevention and
34 the World Health Organization is watching very closely because it has caused some,
35 caused some human cases in terms of jumping species and there is a concern that
36 once you have a novel virus that can jump species and then be spread rapidly from one
37 human to another, that you could end up with worldwide influenza or the pandemic flu.
38 And this slide is really just to tell you where we are now in the world with a number of
39 human cases of the H5N1 influenza virus. We're up to 291 cases. I want to assure you



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1 that no cases have been reported thus far in North America or the United States. But
2 what is also interesting about this slide, if you will note, that the characteristics of this
3 virus is that it is killing those who would one would think are ordinarily very healthy, our
4 young adults, so that the highest death rate is among those ages 10 to 39 and the
5 lowest is actually among the elderly. And that's a bit different. This is showing what we
6 call a W curve rather than a typical curve which would be the very young and the very
7 old. Okay. Next. And this slide is actually just to point out to you that in terms of
8 pandemic influenza preparedness, it requires all level of, all levels of government, as
9 well as all nongovernmental agencies, communities to work on preparing for a
10 pandemic. It is felt to be likely that we will have another pandemic. They do happen. Our
11 last one was in 1968. Before that, 1957. And the big one before that was in 1918. So we
12 are due. But we do need to continue to prepare in terms of how to be ready to stem the
13 impact of a pandemic and to sustain some of our infrastructure operations and to lessen
14 the impact on the economy. And for public health in particular we have to focus on how
15 to reduce the illness and death associated with the pandemic flu. We have been
16 successful actually in this past year in having two forums, one for the business sector
17 that we had earlier this year in terms of assisting them in their awareness of pandemic
18 influenza preparedness and what to do about continuity of operations. That was a
19 successful conference. And then last month we had a forum for healthcare providers,
20 particular private practitioners, in terms of what to think about in terms of how to be able
21 to continue their operations, essential operations with a pandemic. So those were
22 successful. We continue to have exercises with our hospitals and with others around
23 that. I just want to give to you, and you don't have to worry about the busyness of the
24 slide, but I just wanted you to be aware that now the Centers for Disease Control and
25 Prevention has moved on to a new nomenclature or category and they are now calling it
26 a Pandemic Severity Index. And by that Pandemic Severity Index where category one is
27 like our normal seasonal influenza, that category five is like the severe influenza
28 pandemic we had in 1918, that that will govern how groups and agencies prepare and
29 how they gear up for dealing with a pandemic. And what's, in the next slide, what we
30 really are trying to do in public health in particular, if there were no interventions done
31 when there are signs of a pandemic come into the U.S., one would expect a high
32 number of cases as well as a relatively early peak in the pandemic. And all of our
33 mitigation efforts and planning are focused on trying to move that curve, to lower the
34 number of cases and to also delay the spread. So that with our interventions, we're
35 trying to shoot for that circle three shape to our curve. We do have some, what we think
36 is good news in that recently the Food and Drug Administration approved in April a first
37 United States vaccine for humans against the H5N1 avian influenza and it is Sanofi
38 Pasteur that has developed this. It is not necessarily going to give us ample protection if
39 there is a pandemic, because what is characteristic about influenza viruses is that they
40 are constantly drifting and shifting. And that is particularly why every year you need to
41 get another shot against influenza because it's different from the season before. But it is
42 hoped that this vaccine will give some early limited protection against those who are at
43 risk of exposure, whether it's ambulance workers or healthcare providers. That can give
44 us a little bit more time while it takes the almost six months to develop the specific
45 vaccine that would offer protection. Right now this vaccine is in the federal
46 government's national stock pile. It is not commercially available. And right now it is



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targeted towards ages 18-64 years old so it's not available at this point in time for children, but it is being tested. Getting back to this Pandemic Severity Index, I just want for your information or background that interventions are now being geared towards the level of the Pandemic Severity Index and the key to all of this is really to increase social distancing trying to keep people apart so that they will not be spreading the virus one to another. So that there may be a need to cancel school and to reduce the social contacts, such as their intramural sports or things like that. The workplace also are being, those in the workplace are being strongly encouraged to do the best they can around doing their work through telecommunications, identifying what essential operations must continue to function and then with as few people as possible. And also for those at home, voluntary isolation is being encouraged for those who become ill so that they will not be infecting others and there are situations, of course, where that quarantine of the household members would be extended as well so that they would not be exposing others. So this is just the new terms that are coming from the CDC in terms of Pandemic Severity Index. And the next slide is just kind of a mini-refresher that I'm not going to go into in any detail in terms of all the different activities that we're doing in public health to work with our partners, our hospitals and other stakeholders in terms of being prepared for the pandemic when it does come. And we'd be happy, if at some point you want more information in terms of our partnership with the County's Department of Homeland Security in terms of all of the things that we are doing around communications and our surveillance and preparing our workforce. Just of interesting of note that in June, we will be testing our isolation and quarantine model with public safety and with our judiciary so that they can actually, as well as with the Department of, I'm sorry, we've got the title wrong for DTS it's not telecommunications but--.

Council President Praisner,
Technology Services.

Dr. Ulder J. Tillman,
Technology, thank you. Technology Services, we will be working with them and they will be assisting us to see how we can actually do remote hearing for someone who is not compliant with the quarantine order and then working with judiciary and public safety in term of their respective roles as well as public health. So we will be exercising that in June. And the state will be doing a pandemic exercise the end of August of this year. So we continue to exercise and practice and refine what we are doing in preparedness. And then for your information, Montgomery County does have its Alert Montgomery or Montgomery Communication of Emergency Communication Network where individuals can put in their name, telephone and whatever communication device they have so that if there is an emergency, the County can actually do that reverse 9-1-1 and make sure that they have the information. We have actually practiced using the County government side of this in an exercise that we did recently. And we were pleased that in Public Health Services that we had all but four individuals responding to the alert and notifying us that they had received this. For your information, if you want more information about our preparedness or about pandemic influenza, these are some useful websites that you can refer to for more information. Okay.



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Council President Praisner,

Thank you. We have several lights Councilmember Andrews.

Councilmember Andrews,

Thank you Madam President. Thank you Dr. Tillman. What have you seen so far in terms of the spread of the – .

Dr. Ulder J. Tillman,
Avian?

Councilmember Andrews,

Flu in terms of the countries that have shown recent cases that indicated a change in terms of the spread? And second, you indicated that the case fatality rate is highest among those between the age of 10 and 39 although it does say that almost 90% of the cases have been among people 40 or under it looks like, why do you, is there any thinking about why the case fatality rate is higher among the normally more resistant population or at least more healthy population?

Dr. Ulder J. Tillman,

Okay. Let me answer your first question. The World Health Organization has been tracking avian influenza in human cases since December of 2003 and these statistics that I have presented with the 291 cases, that's current to April 11th. It has been --.

Councilmember Leventhal,

Could you repeat the number of cases please.

Dr. Ulder J. Tillman,

I'm sorry. 291 cases.

Councilmember Leventhal,
Worldwide?

Dr. Ulder J. Tillman,

Worldwide.

Councilmember Leventhal,

Right.

Dr. Ulder J. Tillman,

No cases in North America or the United States but primarily this has been happening in our Asiatic countries as well as Africa and in Europe.

Councilmember Leventhal,

Madam President, could I chime in on this point? When I was last briefed on this issue, I was told that the cases that were known, Dr. Tillman, I just want to, if you could confirm that this is still the case, were individuals who lived in very close proximity to birds, such



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1 close proximity that they were likely to breathe in bird droppings or drink bird blood,
2 which in China some people drink duck blood, so number one don't drink duck blood,
3 but number two it suggests, you know, if you have a bird in a cage in your home or in
4 your yard and you're in really frequent contact which is more common in some of these
5 Asian countries than perhaps here, so if that, is what I'm describing con--.

6
7 Dr. Ulder J. Tillman,

8 For the most part that is correct. And that it's really almost intimate contact with birds
9 that they have found this. There has been investigations and a slight showing of
10 individuals who would sleep with the birds that they sell in the market and sleep
11 underneath homes with the birds or in the bird coop so that they did have intimate
12 contact with them and with their excrement et cetera, so that a concern.

13
14 Councilmember Leventhal,

15 We had a briefing -- where if I'm remembering correctly, there was only one known case
16 of human to human transmission and that was a mother and a child who similarly slept
17 together and I think the mother was breastfeeding, is that consistent with what --?.

18
19 Dr. Ulder J. Tillman,

20 There are have been several more cases that have been reported and there was one in
21 particular, I think that was last winter where they actually showed that it went from child
22 to mother and then to some other household members so that it was not just from one
23 human to another but also further and that was of great concern and that was being
24 followed very closely but we haven't heard anything more like that. But this is not
25 something that is currently affecting domestic birds. There are many avian influenza
26 viruses, but the H5N1 and it's a high pathogenic strain, has not been identified in the
27 U.S. at this point in time although we do have federal agencies who are monitoring and
28 partnering with Canada and Alaska looking for the traces of this but it's not occurred as
29 this point in time. And again the emphasis is that we've had no human cases on our
30 continent.

31
32 Councilmember Andrews,

33 So clearly the concern is the potential spread from human to human in terms of massive
34 infections. Given, I think what I heard a little bit from George, is given that there have
35 been 291 cases only worldwide at this point, what are the odds of it developing way
36 beyond that in the next five years? Do you have any sense, I mean, we're preparing
37 clearly for that potential to happen and the talk is essentially that it's only a matter of
38 time before there is another pandemic, a flu pandemic, is there a consensus in the
39 scientific community that there will be an Asian flu pandemic within the next few years?

40
41 Dr. Ulder J. Tillman,

42 I honestly cannot answer that question of when it will happen. But it is clear that when
43 this virus does its genetic recombinations so that it can easily adapt to human bodies
44 and also when the mortality rate tends to drop so that people don't necessarily die, you
45 know, within four to eight days. But once it is able to be transmitted from human to
46 human rapidly, that is when we can probably have an explosive outbreak of the virus



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1 because of the way our world has become smaller, the way we have the transit by
2 plane and other mechanisms and that it would be able to go very rapidly. And that is
3 actually why a lot has been done in terms of how do we monitor people coming into our
4 country? How soon do we get word from the World Health Organization and how well
5 do other countries report that they have outbreaks but I honestly cannot predict when
6 it's going to happen.

7
8 Councilmember Andrews,

9 Okay. I think it's a significant point that actually if the fatality rate decreased it might well
10 lead to an increase in the number of cases.

11
12 Dr. Ulder J. Tillman,
13 That's right.

14
15 Councilmember Andrews,
16 Because people --.

17
18 Dr. Ulder J. Tillman,
19 That's right.

20
21 Councilmember Andrews,

22 Are out with the flu, they're around with the flu more and there are more people they're
23 in contact with over a long period of time clearly if they're not so knocked out by the flu ,
24 either literally or over a period of time, so. One other question, that is why again, has
25 there been any conclusions drawn about the differences in the case mortality rate
26 among the different age populations?

27
28 Dr. Ulder J. Tillman,

29 Yes. There have been some hypotheses primarily looking at the 1918 pandemic and
30 why so many young adults died suddenly with that and it was basically felt that in the
31 young healthy individuals that it was the powerful reaction of their own immune systems
32 that basically compromised them and that they would go into pulmonary edema or some
33 other destabilizing conditions and that if they did not have such strong reactions to the
34 virus, they might have been able to last longer. So that is, that's a theory. But that is the
35 feeling that the healthy ones who got it had a very strong immunologic response to try
36 and fight it off, but because of that strong response and the cascading effect that you
37 have in the human body, that they went into pulmonary edema and then died very
38 quickly. So that hypothesis is there.

39
40 Councilmember Andrews,
41 Okay.

42
43 Dr. Ulder J. Tillman,

44 And I also want to just emphasize again, that the avian influenza is very much different
45 from our seasonal influenza so we're not really talking about the same thing. We hope



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1 that we don't continue to go towards wider spread of an avian influenza effecting
2 humans.

3
4 Councilmember Andrews,
5 Sure.

6
7 Dr. Ulder J. Tillman,
8 Okay.

9
10 Council President Praisner,
11 Councilmember Berliner.

12
13 Councilmember Berliner,
14 Along these same lines Dr. Tillman, you said in your statement when the pandemic flu
15 comes to us, so your testimony, I think reinforces, it will come, is your judgment; is that
16 correct?

17
18 Dr. Ulder J. Tillman,
19 Yes.

20
21 Councilmember Berliner,
22 And when we're speaking of pandemic flu, we are speaking primarily of avian flu?

23
24 Dr. Ulder J. Tillman,
25 Not necessarily.

26
27 Councilmember Berliner,
28 Okay.

29
30 Dr. Ulder J. Tillman,
31 We are speaking of a flu virus that will be new to humans, that has jumped species and
32 that reinforces that it's new, something we've not been exposed to before and that it can
33 be quickly transmitted from human to human.

34
35 Councilmember Berliner,
36 And so the primary example of that is the avian flu?

37
38 Dr. Ulder J. Tillman,
39 That's correct.

40
41 Councilmember Berliner,
42 Do we have any other examples of that at this point in time in the world?

43
44 Dr. Ulder J. Tillman,
45 Not that I'm aware of, no.



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Councilmember Berliner,

Okay. So this entire effort with respect to pandemic flu is in response to the avian flu and the possibility of others coming in their wake?

Dr. Ulder J. Tillman,

Yes, let me correct though, historically, there have been concerns and you might have heard about it I believe it was in the 60s about the swine flu and that is where it jumped from pigs to humans. And there is a concern that pigs can also be a seat of this spread and not just birds. So, there have been cases historically. And that's why I was saying in '57 and in '68, we had milder pandemics, but they did occur and they did cause death.

Councilmember Berliner,

How much of your efforts and that of your Department is devoted to the pandemic flu set of issues would you estimate?

Dr. Ulder J. Tillman,

We do a great many things in Public Health Services, so I've not really estimated percent time, but we do have a team that works on emergency preparedness. But in addition to pandemic flu, they work on preparing for any biological disaster as well as natural disaster and they work with the County's Homeland Security Department. But we have grown to the point that we have those who, all of our Public Health Service employees have been trained around emergency preparedness. We have those capable in school health services as well as in environmental license and regulation as well as communicable disease control and our community health nursing to be prepared to go into action. So we do have various exercises each year to test that. But overall percentage of time, I would have to say that it's got to be less than 20% effort, generally because we do --.

Councilmember Berliner,

Your own personal time?

Dr. Ulder J. Tillman,

I have delegated my Deputy Health Officer to do most of the emergency preparedness concentration. But we do attend monthly meetings with COG. And I have other staff that attend the monthly meetings with the hospitals.

Councilmember Berliner,

Thank you Dr. Tillman.

Council President Praisner,

Okay, you want to move on?

Dr. Ulder J. Tillman,

Okay. The Maternity Partnership, I know that the HHS Committee was briefed on where we are with this program so that this is really just a quick summary in that we now have three hospitals that are participating to provide prenatal care to women. We have



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1 Washington Adventist that's now on tap to see a thousand uninsured low income
2 women and Holy Cross Hospital 1,500 Shady Grove Adventist 200. We are still
3 struggling with the challenge of geographic access for all of our women in the program
4 but we certainly have the capacity at this point in time to see upwards of 2,700 women
5 and we are estimating that we will most likely see 2,400 women this year. You know, we
6 had concerns when the County Council gave a Supplement last year because the state
7 had disenrolled some women who were immigrants, legal immigrants but in the country
8 less than five years. They reversed themselves November 1st of last year so that those
9 women are now able to enroll in the state program. So now we don't have as great a
10 crisis as we once thought. But we are continuing to support this program. Consequently,
11 since the state reversed themselves, they also reversed themselves in the immigrant
12 grant that they gave us that was going to help us to see more women. But County
13 Council, County Executive has supported us to continue to be able to see low income
14 uninsured women on Maternity Partnership. We will be having a meeting soon with both
15 Adventist Healthcare and Holy Cross Hospital to further discuss how women are being
16 triaged to them and the geographic access issues that we have around the program.
17 But it's going very well at this point in time. This next slide is just in terms of the cost per
18 client that we are serving in terms for FY08 it will be at \$931 per client and that is doing
19 essentially the 50% share of the County to the overall operations that they are doing.

20
21 Councilmember Leventhal,

22 I just want colleagues to note, I mean, it is less than a 50% share and the balance is
23 being borne by the hospitals and it comes right out of their bottom line, if we can go
24 back to the last slide.

25
26 Dr. Ulder J. Tillman,
27 What is not --.

28
29 Councilmember Leventhal,

30 When we look at this, this is one more piece in the puzzle that is creating these very,
31 very significant burdens for hospitals because of the amount of uncompensated care
32 they're providing, in this case prenatal care.

33
34 Council President Praisner,

35 Yeah, I think though that on that point, that's very true. What we need when we have the
36 conversation with the Cost Review Commission and the whole Commission is to
37 understand the extent to which hospitals can, through their rate structure, calculate in
38 the extent of uncompensated care and have that understanding and it varies.

39
40 Dr. Ulder J. Tillman,

41 In their charity policy as well, that is true. Now, this slide does not include some of the
42 governmental costs that we also contribute in terms of the dental care that we provide
43 for these women and the case management services. But this is for the prenatal care
44 specifically at that amount. And I've already talked about the next slide in terms of what
45 the state has or has not done in terms of supporting them. For Montgomery Cares,
46 you've already had a discussion on this, so there's not too much I want to say about it,



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1 other than we do have the third-quarter user statistics that we're now at 11,031
2 unduplicated users. So we're now projecting that we would be seeing about 15,100 and
3 some by the end of this fiscal year. We also have the information from the Rand
4 evaluation that had both strengths and deficiencies but basically they're saying that the
5 clients who are using our Montgomery Cares program are satisfied with the care and
6 they are satisfied with the time spent by their providers. What they are concerned about
7 is the access to the program, which makes sense when you consider the numbers of
8 uninsureds that we have estimated in the County and that it is difficult for them to get
9 appointments or available slots and what we are working on is in terms of the translation
10 or interpretative capabilities of our clinics as well as the data collection and that gets into
11 the accuracy of the data that we report to you from time to time. Our clinic -- .
12

13 Councilmember Leventhal,

14 Can I just stop on that with a question? Telephone access to appointment scheduling is
15 a problem, that's a staffing problem, appointment availability is a facility problem.
16

17 Dr. Ulder J. Tillman,
18 That's correct.
19

20 Councilmember Leventhal,

21 And we've talked about that. When are we going to have a website for Montgomery
22 Cares? I don't see any constraint that is preventing us from getting that up and running.
23 Why don't we have it yet?
24

25 Dr. Ulder J. Tillman,

26 The design is there. This is an odd thing to say after some of the discussions that we've
27 had in the past day and week, but it's actually a funding allocation issue in terms of how
28 we can move forward because the website itself, other than a line for communications
29 was not a definite line item in our budget, but we are working towards that. We do have
30 the design as I said. We are working on getting estimates from the consultant on what it
31 would cost to do the full blown website.
32

33 Councilmember Leventhal,
34 Right.
35

36 Dr. Ulder J. Tillman,
37 They've given us amounts.
38

39 Councilmember Leventhal,

40 Experience with mounting a website for my campaign last year. The total cost was
41 about \$2,700.
42

43 Council President Praisner,

44 Well, it depends on upon what you're doing.
45

46 Councilmember Leventhal,



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We're not talking about a massive budget item.

Dr. Ulder J. Tillman,

Well, no, but we are talking about a website that has access for our providers and those who refer as well as for clients in the different languages that we're trying to grapple with as well. They already have the brochure done. We have the brochure coming out in various languages. We're trying to move that to a website. But there are also some issues that when you start talking about the provider port and the client port that we have to address the health literacy issue for clients and what can be made available to us. And it's basically more of a priority issue, you might say, in some of the other things we've been working on in terms of the policy issues and working with the board and then just trying to build this in and get us there.

Councilmember Leventhal,

When might we have the website up?

Dr. Ulder J. Tillman,

Should be in FY08 deliverable. .

Council President Praisner,

Councilmember Knapp.

Councilmember Knapp,

Thank you Madam President. In your last slide, you talked about kind of the Rand Corp. baseline evaluation report and I'm glad we're asking people what we think but with all do respect, it's a group of folks who didn't have access to care before, I'm guessing the notion that patients were satisfied with all these elements, I would hope that would be the case because the alternative was not accessing the care at all and so it seemed that we ought to have a little more critical analysis as to how that was, how that moved forward.

Dr. Ulder J. Tillman,

They are actually asked in a little more detail than that because they're trying to grapple with this issue about the quality of the healthcare that they are receiving so they are trying to get patient perspective but they are also looking at the medical records and the electronic record and trying to look at what that --.

Councilmember Knapp,

So, there's more to the notion of the quality of the care that was delivered.

Dr. Ulder J. Tillman,

Yes.

Councilmember Knapp,



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1 I guess that's what I would like to try and get to because if I can't go anyplace and I go
2 here, I'm going to be satisfied because it's better than the alternative but I just, how we
3 actually measure what happens once they get there and is it really good care --.

4
5 Dr. Ulder J. Tillman,
6 Right. We are actually trying to begin to follow various chronic diseases. We're starting
7 with diabetes and to see how does that change the outcome --.

8
9 Councilmember Knapp,
10 Okay.

11
12 Dr. Ulder J. Tillman,
13 For those clients before and after.

14
15 Council President Praisner,
16 Councilmember Leventhal.

17
18 Councilmember Leventhal,
19 Could we please have copies of that baseline evaluation report distributed to
20 Councilmembers?

21
22 Dr. Ulder J. Tillman,
23 It actually was distributed on the first session that we had for the Public Health Budget.
24 It was in your packet.

25
26 Councilmember Leventhal,
27 The budget packet?

28
29 Dr. Ulder J. Tillman,
30 Yes it is there.

31
32 Council President Praisner,
33 Okay.

34
35 Dr. Ulder J. Tillman,
36 And as I said, that we are working with responding to the findings of the Rand
37 evaluation so that in addition to trying to increase the capacity of the clinics to expand
38 their physical capacity, their telephone systems and their client space and to do
39 strategic and financial planning, we are also making available to all of the clinics, the
40 use of the language line as we continue to work with them in terms of the recruitment of
41 their staffing, that is diverse and the electronic medical record is also being upgraded to
42 eliminate any dual data entry. And I should warn you ahead of the time that that
43 conversion is coming online by the end of May or sometime in June. We may, again,
44 see different outcome numbers or numbers of clients who are enrolled at Montgomery
45 Cares as we go closer and closer to more accurate counts. But we do still have two
46 clinics that do not use the CHL Care Electronic Medical Record and that's Holy Cross



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1 Health Center as well as Community Clinic Incorporated. I wanted to give just a touch of
2 some of the accomplishments that have been occurring in our minority health program
3 and initiatives. I know that there was a briefing session last year, but I just felt that it was
4 timely to give you some information in terms of things that have been accomplished.
5 You know, the African American Health Program came into being in 1999. It has these
6 five coalitions that it focuses on with a large community effort. It first got started with its
7 infant mortality and it is making a lot of progress in terms of its diabetes program in
8 terms of providing nursing consultation, nutritional consultation to members of our
9 community. And what, that I wanted to, the next slide, Jenny, in terms of diabetes self-
10 management education program, they've now been able to expand this Diabetes Diner
11 Club, Dining Club to three sites in the County. And basically they help individuals
12 prepare tasty meals that are in compliance with the diabetic guidelines and it has been
13 very popular with them. Also, something that I was pleased to see and that in a
14 collaboration with Uniform Services, University of Health Sciences, USUS, that the
15 African-American Health Program has submitted a draft manuscript for publication in
16 some of the work that it's done around hypertension. And they have been screening
17 individuals in a number of health fairs and have found that 60% of those blood, those
18 getting blood pressure screenings actually were not in control and fell into the group of
19 prehypertensive levels where they needed to be followed and there are more strict
20 guidelines now in terms of hypertension and prehypertension. And this group along with
21 USUS have identified individuals who need to be seen by a healthcare provider so that
22 they have gotten some efforts underway in a collaborative to get better, tighter control of
23 hypertension and prehypertension in the African American community. And that also
24 includes African immigrants and those from the Caribbean as well that are being
25 identified. In the Latino Health Initiative, this is the long list of the various programs that
26 they have been working on. This group came into being in 2000 and they have a very
27 strong Latino Health Promoters Program. The Health Promoters Program is nationally
28 recognized as a model and has been very successful in which lay individuals receive
29 training and then they can do education outreach to their respective communities. And
30 this has been an effective program for them. They also have done very well for the
31 Department and for the County in terms of what we call a System Navigator Interpreter
32 Program. And this is where they have trained individuals who can do the interpretation.
33 They have a buddy system where individuals who do not speak English but only
34 Spanish can call and get information about the resources, health resources and the
35 Department of the County and then be referred. And then for those who need
36 interpretative skills, these interpreters accompany them to their health appointments
37 and do the interpretation. So that has been successful. And you've also heard about the
38 Foreign Trained Nurses Pilot Program. And that program started with a culvert of 25.
39 They now have six nurses who now are licensed in the state of Maryland to function as
40 RN's and not as CNA's or non-medical fields, so we're making progress in that program
41 as well. Next slide, Jenny. And the Latino Health Initiative does have a strategic plan.
42 They do have a blueprint in place. They are working with George Washington University
43 in terms of their data and an evaluation of where they are at this point in time now that
44 there's some six to seven years post establishment. And next, Jenny. For the Asian
45 American Health Initiative, they have been in a affiliation with the, oh, I should also say
46 about the Latino Health Initiative, that they also have worked with the University of



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1 Maryland on the state's first Latino cancer survey and so they have added to
2 information that the state does in terms of their annual cancer survey by providing that
3 targeting the Latino population. And for the Asian American Health Initiative they have
4 an affiliation with the University of Maryland that has done a needs assessment for them
5 and they have identified through their needs assessment, that not only do they need to
6 be focusing on their strategic planning, but also to continue to focus on their cancer
7 awareness and outreach and training and screening as well as their hepatitis B
8 outreach and education and screening. And we do have national statistics that hepatitis
9 B has a higher prevalence of going to liver cancer in our various Asian groups. So they
10 have put a great deal of emphasis on that as well. The next slide is just highlights of the
11 Asian-American cancer program, which actually predated the Asian-American Health
12 Initiative that got underway in 2004 so it's in its third year for the initiative. And that's
13 really it.

14
15 Council President Praisner,

16 Okay. I see no other lights. So thank you all very much. Thank you and staff behind you
17 sitting in the audience for your work. I think these briefings are very helpful to us as we
18 look both at the programs we're funding and also at the state of health in Montgomery
19 County. We need to move at this point to the next item on the Agenda, which as the
20 Board of Health, is the Regulation restricting trans fat use in eating and drinking
21 establishments. And I'll turn it over to the Chair of the Health and Human Services
22 Committee, Mr. Leventhal.

23
24 Councilmember Leventhal,

25 Thank you Madam President. I will ask Councilmember Trachtenberg in just a moment
26 for any of her comments, she's taken the lead on this issue. We are not the first, what
27 the Health and Human Services Committee does recommend the adoption of this Board
28 of Health Regulation and Councilmember Trachtenberg will be describing what
29 represents actually the unanimous agreement of the Committee with some new
30 language that will be presented to the Committee. We are not the first jurisdiction to
31 require the elimination of trans fats in restaurants. The city of New York has done so
32 and the city of Philadelphia has done so. We have been working closely with the Center
33 for Science and the Public Interest, its Director Michael Jacobson was here to testify
34 and was here during the Committee's markup and we appreciate the work of that
35 important national advocacy organization in raising the consciousness of the public
36 about health effects of diet and nutrition. I want to thank some people who are here
37 today, Melvin Thompson from the Maryland Restaurant Association was very
38 constructive in his comments and in the input that he conveyed to us. We had several of
39 his members involved in the discussion and I think we had a very constructive dialogue
40 and I believe I'm able to report today that the Maryland Restaurant Association does not
41 oppose the regulation that we're bringing forward. So I think that's a very positive step.
42 And with that, let me congratulate Councilmember Trachtenberg who will describe this
43 very important piece of legislation.

44
45 Councilmember Trachtenberg,



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1 I want to start off by thanking our Committee Chair for his effort on behalf of this
2 regulation as well and I want to acknowledge Councilmember Berliner who also worked
3 with us in the Committee on this very important regulation. I would ditto everything that
4 Councilmember Leventhal has stated but what I would like to do at this point is to speak
5 a little bit about some of the issues that were raised in the worksession and I believe in
6 summary the two areas that we focus primarily on were implementation dates to make
7 sure that we were working with the industry and giving them reasonable time
8 recognizing that there were some complex issues around the production of baked
9 goods over actual preparation of food using cooking substances. And what we decided
10 to do was to keep the Bill language such that the implementation that related to the
11 preparation of food would start January of '08 and the implementation relating to baked
12 goods would start January '09. And I know Councilmember Berliner had recommended
13 some language during that worksession to, again, give certain people additional time
14 with an application made to the Health Department. After the worksession, my staff and
15 I actually did some additional research, talked with some folks out of the New York City
16 Department of Health, also spoke with the County Attorney's Office and including Mr.
17 Rodriguez who is about to join the staff there. And I have an amendment, which I
18 believe all of you will get a copy of. I believe it was also circulated within the Council
19 offices yesterday afternoon. Simply what this language would do is make an application
20 possible, rather an extension possible for anyone who would apply and they would have
21 an extension for up to a year. In other words, rather than ask the Department of Health
22 to certify that such an extension was appropriate, it was recommended to me and to my
23 staff that what we simply might want to do is just let people make the application and
24 automatically receive the extension for up to a year but the other side of it would be that
25 there would be some notice in the public setting in the restaurant that they indeed had
26 such an extension. And it's as straightforward as that. I believe there was some
27 additional language as well about a Department may charge a fee to process the
28 request. But, again, nothing more specific than that. And so at this time as
29 Councilmember Leventhal indicates, this is the language that the HHS Committee is
30 supportive of. So the regulation before you today is as amended.

31
32 Council President Praisner,
33 So the amendment in front of us is actually the Committee's rec, has been incorporated
34 into the Committee's recommendation?

35
36 Councilmember Leventhal,
37 Committee members, Mr. Berliner I believe concurs, he can so state if not, unanimously
38 recommend this amendment to the full Council.

39
40 Council President Praisner,
41 Okay. So what is before us is the language as amended twice.

42
43 Councilmember Leventhal,
44 Right.

45
46 Council President Praisner,



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1 Amended by the Committee originally and then amended most recently by consensus of
2 the Committee to, so it is a Resolution that has been amended by the Committee with
3 the most recent language changing Section H, which is on Page 4 and Section I.

4
5 Councilmember Leventhal,
6 Before we go Madam President, I'm going to conjure up Neal Potter here on Circle 1,
7 the Board of Health, the spelling on Health, there's a typo there.

8
9 Council President Praisner,
10 Right.

11
12 Councilmember Floreen,
13 No X's in it.

14
15 Councilmember Trachtenberg,
16 Yeah, okay. Yeah, I didn't notice that, George.

17
18 Council President Praisner,
19 Well that's why we all at different times have to play Councilmember Potter.

20
21 Councilmember Leventhal,
22 Right.

23
24 Council President Praisner,
25 Takes us all to be the equal of Councilmember Potter.

26
27 Councilmember Trachtenberg,
28 I see that.

29
30 Council President Praisner,
31 Okay. Anything else? Anybody find anything else? Alright there are some lights.
32 Councilmember Floreen.

33
34 Councilmember Floreen,
35 Thank you Madam President. I appreciate the initiative here. I think it's a great idea. It's
36 certainly solved a debate within my household about butter versus margarine. I won.
37 You all will be glad to know. But I have some questions about the substance of the Bill
38 and about the implementation. As I understand it this Bill is patterned after the New
39 York initiative. Apparently in New York, material, food that has it lists less than half a
40 gram of fat, trans fat is not considered to contain artificial trans fat in New York
41 apparently. According to Circle 37 at least.

42
43 Amanda Mihill,
44 That's correct.

45
46 Councilmember Floreen,



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1 Actually that was a Bill for Maryland--.

2
3 Council President Praisner,
4 Yeah, that didn't pass.

5
6 Councilmember Floreen,
7 It was a New York standard too, according to that piece, on Circle 38. Does this have
8 the similar intention?

9
10 Amanda Mihill,
11 Yes. If you look on Circle 2 under section A, 2C, it specifically excludes food that
12 contains less than point 5 grams of artificial trans fat.

13
14 Councilmember Floreen,
15 Oh, okay. Okay. Then my question is, and I'm just going to display my total ignorance
16 here, Ms. Tillman, what do we manage in terms of food management in eating and
17 drinking establishments now, what do we do as a County?

18
19 Dr. Ulder J. Tillman,
20 In Montgomery County as and the rest of the state of Maryland, we do follow state
21 guidelines to protect the safety of food. We actually follow a hazard analysis and critical
22 control point model, which essentially prioritizes our food service establishments of
23 those that have high priority facilities that could have a tendency to cause more readily,
24 if they are not adhering to food safety practices, harm to individuals in terms of causing
25 disease. We have these food service establishments broken out into high priority,
26 moderate and low and we do inspections of them so that generally they have two to
27 three inspections if they're in high priority facility.

28
29 Councilmember Leventhal,
30 Per year.

31
32 Councilmember Floreen,
33 Is this for a year?

34
35 Dr. Ulder J. Tillman,
36 Two to three inspections per year. And we also respond to complaints. Before a
37 restaurant can open, they do have to submit a plan of the design and the practices and
38 we do have environmental health inspectors who review those plans. They go through a
39 permitting process. We do license all of our food service establishments. I would say on
40 average when one inspects a restaurant that it takes at least an hour in terms of that
41 inspection to follow that model to make sure that there aren't any potential practices or
42 arrangements or setups that would cause harm and cause the food to become
43 contaminated or to have bacterial contamination and cause illness. So that's simple
44 things in terms of the temperature of their washing machines, dishwashing machines
45 that that has to be monitored. Are they keeping foods cold when they should be cold
46 and at the proper level and when they are heated that they're kept at the proper level.



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1 Not leaving foods out uncovered and at the improper level, those sorts of things are
2 things that are inspected. So we do that. And in addition to that along with our County's
3 smoking ban ordinance, we do check for the postage that they've got, the signage so
4 that they have the signs about no smoking. We can do a quick visual and sniff test to
5 find out and make sure that no smoking is occurring in the food service establishments.
6 So we do that as well. So it's one to two hours of an inspection.

7
8 Councilmember Floreen,

9 So, do you inspect all restaurants in a course of a year?

10
11 Dr. Ulder J. Tillman,

12 All, well, we try, all licensed restaurants. We have presented before to the Council and
13 to the HHS Committee, that we are able now with some additional staff that we have to
14 inspect 85% of the mandated.

15
16 Councilmember Floreen,

17 So if you're going around anyways, why do you need, let's see, there's a fiscal and tax
18 statement in here that says this would cost us about \$215,000 a year.

19
20 Amanda Mihill,

21 Circle 5.

22
23 Councilmember Leventhal,

24 Could I just jump in there because we dealt with this in Committee, we asked exactly
25 the same question. It's an apt question and the answer was a simple arithmetic exercise
26 that was that the checking for the oils and the ingredients was going to add about 15
27 minutes to the average inspection. There are 2467 food service facilities. They're each
28 going to be inspected two to three times a year and it was just simple arithmetic, you
29 were just adding work hours.

30
31 Councilmember Floreen,

32 Except that she just said that they're not all inspected three times a year.

33
34 Councilmember Leventhal,

35 Well we did, I tried to double-check their math as well in Committee. So, I mean, I just
36 want to reassure the Council that we did address this point in Committee and I took out
37 my calculator and whipped it out and was skeptical and double-checked the arithmetic
38 and it was just an arithmetic exercise. It adds time to the inspection and so they have to
39 add a couple work years to account for that time.

40
41 Dr. Ulder J. Tillman,

42 Let me also add in addition to the actual inspections, that to implement a new program
43 is going to require us to develop the forms and the process of what that additional
44 inspection will be. This will be in addition to the state inspection. We need to do some
45 public information, the training of our own inspectors as well as the training of the food
46 service operators in terms of what is a trans fat and how to comply. What I don't think is



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1 in your packet, is that in New York state, it actually took them three years to get to
2 where they are and they began in mid 2004 in terms of meeting with their Food Service
3 Advisory Council in terms of what they wanted to do. They spent a year in terms of
4 education of their food service operators in terms of what is a trans fat and how do they
5 get rid of it, how you comply. Then they'll be implementing their program this July, but
6 they also have training programs that they are still planning, not just for their food
7 service operators, but then in terms of the baked goods by fall of this year, they will
8 have training in conjunction with a culinary school to help those chefs in terms of how to
9 cook with the proper oils. So it's not just you start it and do it. There's got to be some
10 preparation in terms of how to get both our staff and the food service establishments
11 ready for this.

12
13 Councilmember Floreen,
14 Do we do any other kind of training for restaurants?

15
16 Dr. Ulder J. Tillman,
17 Yes, we actually have a food management program and we do certify food managers of
18 food service establishments. So every three years they have to, first they get trained,
19 they get certification every three years, they have option of either taking a test or doing
20 refresher courses. So we have that in place as well and we do that with Montgomery
21 College.

22
23 Councilmember Floreen,
24 So this would be added on to that?

25
26 Dr. Ulder J. Tillman,
27 This will need to be added on somehow.

28
29 Councilmember Floreen,
30 I guess the new language would require you to explain all this to all the restaurants and
31 then tell them that if they wanted delay of up to one year of this anti, no trans fat
32 requirement, they just need to send in a piece of paper apparently.

33
34 Dr. Ulder J. Tillman,
35 No, it's my understanding that the amendment only affects the baked goods. So it's that
36 2009 deadline of the foods that are used in deep frying of yeast dough and cake batter.

37
38 Councilmember Leventhal,
39 Could I clarify on that point?

40
41 Dr. Ulder J. Tillman,
42 Is that not correct?

43
44 Councilmember Leventhal,
45 No, I'll walk Councilmembers through this because this is an important point. If you go to
46 Circle 4, the foods that are covered in the most recent amendment from the Committee,



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1 which we have in front of us, it addressed the request for a waiver, a delay of up to one
2 year applies to any food covered by Subsection G 2B which is on Circle 4., which is
3 other foods containing artificial trans fat. So it does not cover point one which is oil
4 shortenings, margarines with artificial trans fat that are used for frying or in spreads.
5 Those are the first things that have to go. They have to go right away. So frying oil,
6 margarine with trans fats, those are gone. The doughnut issue which we heard about,
7 the doughnuts are the deep fried baked goods. And then anything else, now those may
8 be baked goods, they may be cookies, they may be other food items which are not fried
9 in trans fat and that's what the one year extension applies to. We were told that there
10 were certain products that are for sale now, Sara Lee cheesecake was offered as an
11 example.

12
13 Councilmember Floreen,
14 There's been a lot of talk about Sara Lee.

15
16 Councilmember Leventhal,
17 Yeah.

18
19 Councilmember Floreen,
20 And I think that's a good thing to talk about.

21
22 Councilmember Leventhal,
23 Which, as yet, they're not able to substitute for. So, you can apply to serve Sara Lee
24 cheesecake and get an additional year.

25
26 Councilmember Floreen,
27 Well, that's what I -- .

28
29 Council President Praisner,
30 Wait, let her finish her questions and then each of the Committee members who wants
31 to comment, can. Go ahead Nancy.

32
33 Councilmember Floreen,
34 Well, just being, reading the new language it says, you can request a delay of the
35 applicability of this regulation to any food covered by Section G 2B, G 2B is all other
36 foods containing artificial trans fats. So it doesn't apply to the deep frying of yeast
37 dough, I guess that's doughnuts?

38
39 Council President Praisner,
40 Who wants to answer that? One of you, doughnuts, yes or no?

41
42 Councilmember Leventhal,
43 What about doughnuts?

44
45 Councilmember Floreen,
46 Deep frying of yeast dough is doughnuts?



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Councilmember Leventhal,
That's a doughnut, right.

Dr. Ulder J. Tillman,
Yes.

Councilmember Floreen,
And then --.

Councilmember Leventhal,
No it doesn't apply to doughnuts.

Councilmember Floreen,
It says or cake batter. So if you -- .

Councilmember Leventhal,
Waiver would not apply to a doughnut. That's correct.

Councilmember Floreen,
But would it apply to a cake?

Dr. Ulder J. Tillman,
Please ask for clarification, I thought that it was the oils that made those things that came under A, but that the doughnuts themselves could fall under B. Doughnuts and cakes. That's the way it was explained to me. But I'll defer to.

Council President Praisner,
Yes. That's the way the language is. A is the cooking process. B is the content.

Councilmember Leventhal,
Yeah.

Dr. Ulder J. Tillman,
Right.

Councilmember Leventhal,
Yeah, that's correct.

Dr. Ulder J. Tillman,
Right. Right. That's what I meant.

Councilmember Floreen,
Well, so if, oils or shortenings used for cake batter, is that what you mean here?

Council President Praisner,



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1 No, used for deep frying.

2
3 Councilmember Leventhal,

4 Well, what I understand about the --. See, there's two issues with doughnuts.

5
6 Councilmember Floreen,

7 You mean a cake doughnut?

8
9 Council President Praisner,

10 Yeah.

11
12 Councilmember Leventhal,

13 Okay, look, there's two issues with doughnuts, okay.

14
15 Council President Praisner,

16 Right. You're making me hungry here.

17
18 Councilmember Leventhal,

19 The trans fats --. Well, let's have one speaker at a time. Whoever you want Madam
20 President. I'll defer to someone else --.

21
22 Council President Praisner,

23 Go ahead. Mr. Leventhal, you're Chair of the Committee.

24
25 Councilmember Leventhal,

26 Right.

27
28 Council President Praisner,

29 Go ahead.

30
31 Councilmember Leventhal,

32 Right. My understanding and there may be food preparation experts who understand it
33 better than I do, trans fats are used for a couple of purposes. It's a relatively cheap
34 cooking oil number one. Number two it tends to increase the shelf life of a baked good.

35
36 Councilmember Floreen,

37 Right.

38
39 Councilmember Leventhal,

40 So if your doughnuts for the most part, you serve daily, okay, so the issue with
41 doughnuts, Dunkin Donuts contacted us and they had not found a cooking oil that was
42 as good for them to fry the doughnuts in yet as trans fat. So for the most part with
43 doughnuts because doughnuts don't sit on the shelf for a long time, they will not be
44 covered. They will not be covered under the one year extension. For the most part the
45 one year extension is going to apply to, as Dr. Tillman said, food items in which trans
46 fats are present. It's possible that a doughnut might have trans fat in it if it were



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packaged and sitting around for a long time, but for the most part doughnuts are baked every morning and consumed every day and they're fried in trans fat.

Councilmember Floreen,
Okay. I'm more confused then.

Councilmember Leventhal,
Well, I'm sorry to hear that.

Councilmember Floreen,
One is for, I'm just trying to read it, for oils used for frying. So, that would apply to anything that you fry.

Councilmember Leventhal,
And the frying oil itself.

Councilmember Floreen,
Yes, the frying oil itself.

Councilmember Leventhal,
And that goes into affect right away.

Councilmember Floreen,
Right, and then, so, tell me, again, what 2A --.

Councilmember Leventhal,
Not right away, January 1st of 2008.

Councilmember Floreen,
Well right, the initial one, tell me, again, what the 2A means, oils or shortenings used for deep frying, that's different from --..

Councilmember Leventhal,
See, here again we're talking about the frying oil, not the item being fried.

Councilmember Floreen,
Right, but the frying, isn't that covered by 1?. It is not because we were told by the doughnut industry that there is something special about the oil that they fry the doughnuts in. A doughnut is a fried cake. Doughnuts are fried.

Councilmember Leventhal,
That's how you make a doughnut.

Councilmember Floreen,
Yes.



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1 Councilmember Leventhal,
2 Okay.

3
4 Councilmember Floreen,
5 I have a good recipe.

6
7 Council President Praisner,
8 I can't resist, it's time to make the doughnuts.

9
10 Councilmember Leventhal,
11 Okay. So the oil that you fry the doughnut in, we're providing an additional year at the
12 request of the doughnut industry.

13
14 Councilmember Trachtenberg,
15 Yes we are.

16
17 Councilmember Leventhal,
18 To ban the trans fat in that oil. Okay, now --.

19
20 Councilmember Floreen,
21 I see, so but --.

22
23 Councilmember Leventhal,
24 G 2B applies to the food item itself.

25
26 Councilmember Floreen,
27 Yeah I get that part.

28
29 Councilmember Leventhal,
30 Yeah.

31
32 Councilmember Floreen,
33 It was the frying part. Ms. Tillman, do you understand how you would enforce the
34 differences here?

35
36 Councilmember Leventhal,
37 Well, you're going to check the oil.

38
39 Councilmember Floreen,
40 Yeah, you're the one in charge of having to manage this?

41
42 Council President Praisner,
43 I thought you made the distinction very clearly before.

44
45 Dr. Ulder J. Tillman,



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1 Well, I was explaining how it was explained to me. But quite honestly, if we're talking
2 about the amendment, I am puzzled why we just would not be extending an additional
3 year if it says that if they request it, the Department must grant it. I don't understand
4 what we're achieving in that.

5
6 Councilmember Floreen,
7 Well, that's another question.

8
9 Council President Praisner,
10 Right, that's a separate question which I'll turn to someone on the Committee to answer
11 after we're done with Ms. Floreen's question.

12
13 Councilmember Floreen,
14 Well, let me ask that question because that would be my question. If we know what 1
15 means, which is for frying purposes or --.

16
17 Councilmember Leventhal,
18 And spreads.

19
20 Councilmember Floreen,
21 Spreads. We know what frying and spreads are, I think. Why wouldn't you just make it
22 2010 for everything else?

23
24 Councilmember Leventhal,
25 Well, because we are treating this as a Public Health Regulation and because it is the
26 Committee's judgment and I hope the full Council's judgment that we are conveying to
27 our constituents that the food sold in Montgomery County restaurants is reasonably safe
28 and that because we understand the trans fats threaten the public health, we are acting
29 as the Board of Health to eliminate trans fats as quickly as feasible. We've been working
30 with the food industry and the restaurant industry to address issues of feasibility. But the
31 sooner the better for those food items containing trans fats that we are persuaded can
32 be eliminated quickly. You can use canola oil right now to fry French fries so there's no
33 need to use trans fat shortening to fry French fries, you can eliminate that right away
34 and so why wait? We can do it right now. And the food industry agrees with that from
35 what has been represented to us.

36
37 Councilmember Floreen,
38 Well, for example, I gather there was a conversation about Sara Lee pies.

39
40 Councilmember Leventhal,
41 Yes.

42
43 Councilmember Floreen,
44 Or some kind of packaged pie.

45
46 Councilmember Leventhal,



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Right.

Councilmember Floreen,
Whoever.

Councilmember Leventhal,
Right.

Councilmember Floreen,

We could all identify our favorite. You could have different places having to request an exception for the same pie. I mean, the way this works is that if there's a particular pie that's popular or particular baked good or cheesecake or whatever food item it is that's popular and desirable in the community, each place that made that available to the public would have to request separately an exception.

Councilmember Leventhal,

Well, that's an, yes, and there's a good reason for that, because our hope is, is that restaurants will get the message and that the public will get the message and that increasingly the public will demand that there be no trans fats served at all. But if a restaurant is determined to continue to serve a trans fat item then we'll give them a way, but we're also going to require signage, they're going to have to display that there are trans fats foods sold at that establishment so all of this is designed to hasten the elimination of these products while at the same time being as reasonable and practical and feasible as we think we can be with input from the, we have the retail grocers, we have the Restaurant Association, we're trying to work with them in a way that makes sense.

Councilmember Floreen,

Well, I'll have a motion, if our, if other people want to speak to this, I'll hold off, but I'm a little confused as to why one would want to put everybody through this process if it's an automatic delay for the same product.

Councilmember Leventhal,

Well, I'll speak to that if I may. Okay, a particular restaurant may decide that it wants to serve healthy nutritious trans fat free products whereas another restaurant may say, you know, my customers want the trans fat product so I'm going to continue to sell the trans fat product and that's an individual judgment. If you want to continue to sell the trans fat product, the cheesecake whatever it is, then you can apply for that and you have an additional year to do it. Is it a burden on the restaurateur? It's a small burden compared to earlier versions of this. Originally, you know, as Councilmember Trachtenberg introduced it, we were going to wipe out these food items altogether. Now if you insist that you need another year to sell this particular item with trans fat in it, you may have one more year. We're not encouraging that. We're not making it easy to do that. The intent of this is to eliminate this unhealthy food item. All together.

Councilmember Floreen,



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1 But there's not going to be any kind of judgment exercise by the Department, the
2 Department is just going to, is – to grant this.

3
4 Councilmember Leventhal,

5 Well, we've gone, again we've walked through this. If you follow the thinking here. If you
6 go to Circle 4. Mr. Berliner had his effort to work with his constituent, we're all familiar
7 with, the Tasty Diner and the Tasty Diner had a concern about particular food items and
8 so Mr. Berliner said that the burden would be on the Department to certify that there
9 was no commercially available substitute for the cheesecake. What we've now, the
10 Department said we can't do that, we don't have the capacity to assess every available
11 substitute in the commercial market for particular food items. So we've actually created,
12 I hate to say it, but it's true, a larger loophole in order to make it more administrable both
13 for the Department and for the restaurants for one year.

14
15 Councilmember Floreen,

16 Well, basically you're saying to the restaurant industry this really takes effect January 1,
17 2010.

18
19 Councilmember Leventhal,

20 No we're not saying that, Ms. Floreen. If you read the regulation we are phasing it in to
21 address those food items that we believe can practically be replaced immediately so,
22 not immediately, but January 1st of '08 there won't be any more trans fats used in frying
23 oils in Montgomery County. That's a major step forward. Beginning in January of '09
24 you can't fry doughnuts in trans fats anymore. And then during the course of '09 if a
25 restaurant says, you know, my customers just love this particular food item and I can't
26 get rid of it yet, they may apply for one more year for a few specified food items that the
27 restaurants don't believe they can replace. We are phasing it in and trying to be
28 practical.

29
30 Councilmember Floreen,

31 Ms. Tillman how would you enforce this? How would you track, do you have the
32 capacity to track this?

33
34 Dr. Ulder J. Tillman,

35 I don't think this is an issue so much of tracking if we are looking at the last amendment
36 that is submitted. It means that we give an automatic pass if you will to any group that,
37 or restaurant that requests another year's extension if they have complied with G1 and
38 G2A. I don't know what these other foods contain in artificial trans fats will be. That has
39 not been delineated for us. I do think it's important to understand and everyone should
40 understand even if it is by January 1st of 2010 that this is complied with. That zero trans
41 fat does not mean it's trans fat free. And it's still point 5 grams of trans fat per serving.
42 And the average American eats more than one serving. So that one still has to be very
43 vigilant and selective in terms of portion control and what you're eating.

44
45 Councilmember Leventhal,



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Well, thank you Dr. Tillman but I think it's, but understand again that language came from New York City. New York City which has, you know, enormous food processing and food industry presence decided that that was the best that could be achieved right now in terms of the state of the food industry, that you could not absolutely certify 100% trans fat free. So what Councilmember Trachtenberg and the Committee have done here is to try and offer something that can be complied with that is practical and feasible in 2007, 8, 9 and 10.

Councilmember Floreen,

Well, I guess, I appreciate the good efforts of everybody involved. This point about let's agree there's still going to be trans fats out there, what is the average, what you get at a restaurant these days is how many servings? It's more than, more than the kind, you know, what is it the pack of cards, isn't that like a serving of meat or something. That is actually a serving which nobody eats anymore. If we're going to be clear about what we mean I really would suggest, make the motion that we just amend this to say in 2 it takes effect in January 1, 2010 for everything else. And require, but I think this idea of the signs indicating their, the status of their trans fat usage is a very good thing. It's a way to get the message out there and it achieves the same result that I think the Committee is looking for which is notice to the public of our community's intention to be health conscious. So I would move that we change January 1, 2009 in G2 to January 1, 2010 in the original language and then include the language with respect to the posting the signs.

Council President Praisner,

I would have seconded that motion if it were that we were extending it for a year, but we've already it extended it for a year by separating the two out. It started originally as '08. So, it seems to me it's already been extended a year for this piece which is what I support, extending it for a year so. I don't see any other seconds, Nancy.

Councilmember Floreen,
Okay.

Council President Praisner,
Mr. Berliner.

Councilmember Berliner,

If I could I think it might be helpful to, if you will, redo the bidding with respect to this because when the Bill came to us in Committee it did have an effective date across the board of January 1, 2008.

Council President Praisner,
Correct.

Councilmember Berliner,

It was my understanding from conversations with the sponsor that her intention was to in effect adopt what was the New York and Philadelphia model, which did involve a



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1 phasing in. And so I sought to amend the proposal to provide for that phase in. So it
2 phased it in for immediately basically for frying because everybody in the restaurant
3 industry has basically said we can do the frying piece today. With respect to the
4 doughnut situation for Krispy Kreme, Dunkin Donuts, the world, doughnuts are in a
5 world of trouble right now.

6
7 Council President Praisner,
8 And Sara Lee.

9
10 Councilmember Berliner,
11 No, no, that's different.

12
13 Council President Praisner,
14 That's not a doughnut though.

15
16 Councilmember Berliner,
17 That's different. So with respect to them we said no, they need a little longer so we gave
18 them another year with respect to that. And then finally in the hardest part of the
19 conversation and the only part of the conversation that's really been driving the debate
20 even in the industry is the baked goods set of issues. So that's where Sara Lee comes
21 in. It is baking that is so difficult because, as one of the restaurants has said, its texture
22 there matters as much as taste and finding substitutes that create the same texture is
23 very difficult. And so for many restaurants they buy baked goods and serve them. They
24 are not preparing them in-house. They are going out in the market and people like Sara
25 Lee or they like X, Y or Z and they want Sara Lee notwithstanding the fact that they are
26 not trans fat free. So my intention with respect to the amendment that was offered in
27 Committee was not to give an automatic pass, because I wanted to keep the pressure
28 on the industry but was to create a context where the restaurant would have to, the
29 restaurant, not the Department, would have the burden of proof of demonstrating that
30 there was not a commercially available substitutable product there. So that the
31 restaurant would have to come forth and say hello, I cannot find something that my
32 customers will want in favor of this baked good. And if they demonstrated that to the
33 satisfaction of the Department, the Department would then, what was intended by the
34 sponsor, was that the product would then be deemed to have not be widely available
35 and then there would be a waiver with respect for all restaurants if they sought to serve
36 that product. Okay. That was this sponsor's intent. The waiver, the delay went to a food
37 covered as opposed to a restaurant. So, I can appreciate there was some ambiguity
38 with respect to that, had there been conversations with respect, from, with the
39 Department with respect to it, it could have been clarified. So my goal was to limit the
40 loophole by one, putting on the restaurant the burden of demonstrating that they
41 couldn't find it, and if they met that burden, if the Department had discretion with respect
42 to whether or not they concluded that met that burden, deemed that they did, then it
43 could be granted for up to a year. Then I understood the Department didn't feel like it
44 had the capacity to make that determination. I understand that. So, we've gone from a
45 situation where we tried to limit the universe, keep the pressure on to the sponsor's
46 decision that the cleanest way to handle it is simply to make it automatic, which I do



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1 think leads to the question of whether or not with respect to this subset of goods, only
2 baked goods, if it is automatic, whether it should be across the board. I think it is almost
3 a distinction without a difference at this point. So, I just, I do understand why it would be
4 that that question would be raised.

5
6 Councilmember Trachtenberg,

7 You know, before George speaks, you know, what I want to just offer here as a framing
8 to the conversation that we're having is that we had a worksession, and in that
9 worksession there were several people who testified and made a case for the
10 extension. And after talking to people from our Department and the Department up in
11 New York City, it seemed to me, and it also seemed to be the case to different folks that
12 are within the County Attorney's Office, that maybe the simpler way to deal with this was
13 not to put a burden that can't be met on the Department and to simply allow someone,
14 you know, we know that in terms of the frying, that substitutes are there, everybody's
15 onboard with the implementation date. So what we were trying to do was to give those
16 people that felt they might have some difficulty getting up to speed by January '09,
17 giving them the option of applying for the pass, not asking the Department, as George
18 stated, to have any involvement, any clearance and simply ask them to provide the
19 information to the public by the way of a notice in the restaurant. Because ultimately
20 that's the whole goal here, which is to protect the public health and to make sure that
21 people have access to safe and nutritional food. So, I understand where you're coming
22 from Councilmember Berliner, but I really think if you separate in your mind the two
23 phases, the one around frying, that's a no-brainer, it can happen in January '08. You go
24 to the second phase which is the baked goods, the doughnuts in particular which
25 everybody's concerned about, all right we're going to give people an extra year to
26 comply with that, but for those that feel there's a hardship we're trying to be flexible
27 enough to give them additional time and to file the application for a nominal fee and to
28 be amenable to be agreeable to posting a sign, a notice in the eating establishment.
29 You know, it seemed to me to be pretty common sense. And the other thing I would add
30 to the conversation is I've been told by my staff, I hadn't realized this, that Sara Lee is
31 actually in the process of changing their content and their baking process which I hadn't
32 really thought about. So in other words, you know, industry is going to catch up here
33 and could very well be that by January of 2009 we're actually looking at substitutes for
34 baking purposes that we don't really know of today. And again, that was another part of
35 why we were trying to phase this in, recognizing that we still don't have all the
36 information, we can learn from the New York City experience, but that ultimately we
37 wanted to give the restaurant industry in particular, we want to have some flexibility for
38 them, we want to work with them.

39
40 Council President Praisner,

41 Okay, Councilmember Leventhal and then if we're done with the issues unless Mr.
42 Berliner you have more? Okay.

43
44 Councilmember Leventhal,

45 Well great, I think we're close to a vote Madam President. If Mr. Berliner is comfortable,
46 I think, what you have to think through what is actually going to occur here in the third



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1 year. What this language which I urge my colleagues to just go ahead and vote for and
2 let's, you know, work through this. If we find it's an enormous hardship we can always
3 take another look at it. I don't believe it will be. KFC is eliminating trans fats. McDonald's
4 is eliminating trans fats. The industry is moving very rapidly in this direction but by the
5 time you get to year three it is not going to be across the board situation, not every
6 restaurant is going to apply for a waiver. By the time we get there most restaurants will
7 have long ago decided they don't need to be trans fat, they don't need to sell products
8 with trans fat in them and if a particular restaurant insists on hanging onto that one trans
9 fat product they are going to have a sign in their window alerting customers that they
10 are selling products that may be injurious to their health. That's not a great incentive to
11 dine in that restaurant. Restaurateurs are not going to want that sign in their windows.
12 So, I don't believe it's going to be a big issue in year three. I don't think it's going to be
13 an across the board waiver for everybody and every type of food. I think quite the
14 contrary. I think it's going to be quite rare that these exceptions are applied for but we
15 are again trying not to alarm the restaurant industry, we're trying not to have a big
16 conflict with the restaurant industry. They have asked for more time and so we provided
17 a scenario where they can have more time, so I'd like to stick with this amended
18 language that Councilmember Trachtenberg has offered and I hope perhaps the Board
19 of Health is ready to vote.

20
21 Council President Praisner,
22 Okay, staff has her light on.

23
24 Amanda Mihill,
25 I'm sorry, I just wanted to offer one clarifying modification to the amendment by
26 Councilmember Trachtenberg. On Line 11 it says that the establishment must post
27 conspicuous signs indicating. Since signs isn't really defined, that could be two or ten. I
28 would just suggest modifying it to read at least one sign.

29
30 Councilmember Leventhal,
31 Could we be consistent with the smoking reg?

32
33 Amanda Mihill,
34 The smoking reg says signs at each entrance, I mean, we could do that as well.

35
36 Councilmember Leventhal,
37 I just think, just to make it simple on the Department, could we just have one consistent
38 rule, the same situation for this as for smoking?

39
40 Amanda Mihill,
41 Okay.

42
43 Council President Praisner,
44 So we must post, take out conspicuously and say must post a sign at each entrance.

45
46 Amanda Mihill,



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Correct.

Council President Praisner,
Okay.

Amanda Mihill,

The smoking reg I actually believe says conspicuously. We can take that out or we could just do it word for word from the smoking.

Council President Praisner,

I just don't, I really have a problem with adverbs and stuff that can be debated and you could have a challenge that the sign isn't conspicuous as the issue.

Unidentified

A neon sign.

Council President Praisner,
A new neon sign?

Unidentified

Neon.

Council President Praisner,

(multiple voices) I mean, you know, if it's at the entrance I would think, if folks are educated enough, they will be asking at the restaurant, you know, what's going on or whatever.

Amanda Mihill,

Okay.

Dr. Ulder J. Tillman,

May I please just clarify something when you say consistent with the smoking ban.

Since trans fats are odorless and tasteless, if we receive a complaint that questions it we will still have to do the detail review of their storage preparation service.

Councilmember Leventhal,
Right.

Dr. Ulder J. Tillman,

To find out whether or not there are trans fats.

Councilmember Leventhal,

I was only regarding the placement of signs.

Dr. Ulder J. Tillman,

A sign won't help us is my point.



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Council President Praisner,
No, but.

Councilmember Leventhal,
The smoking ban requires the placement of signs at each restaurant stating that smoking is prohibited in the restaurant. That's already in place now. That's all I was referring to.

Dr. Ulder J. Tillman,
Right and I'm just saying that the sign won't help us with this issue if it's not there. You still have to figure out what to do.

Council President Praisner,
Okay. I see no other lights. The Resolution is before us. All in favor of adoption of the Resolution? Councilmember Ervin. Oh okay. Councilmember Ervin, Elrich, Trachtenberg, Knapp, Berliner, Andrews, Leventhal, Praisner and Floreen. (laughter) It is unanimous.

Councilmember Trachtenberg,
I'll bring doughnuts to all.

Council President Praisner,
Alright, the Resolution is adopted, the Resolution is adopted unanimously. We have one more item left. It obvious, it is very important to Park and Planning but it should not take very long. And so I would invite Mr. Hanson to the table in case there are questions, but I actually think it's been in the packets for Councilmembers for some time. As Councilmembers will recall, as we were doing the FY08 Operating Budget for Maryland National Capital Park And Planning Commission, staff and OMB identified that the Committee's decision to shift \$3. 2 million of expenses from the administrative fund to the special revenue fund meant that the revenue was off the table as well as the issue of that difference as far as the Planning Board's budget. So the Committee had to go back and identify a list of reductions non-recommended reductions increasing the reductions to Park and Planning. This is not the total amount of reductions for Park and Planning. This is the amount that is associated with the 3.2. We've already gone through this twice or three times actually with the Commission talking about, on several meetings talking about the Central Administrative funds, talking about the Planning side and administration talking about Parks. These are the final piece of non-recommended reductions that are associated with the Park and Planning Commission budget, and they actually slight difference from the 3.2, and it's associated with I think the subsidies and some of the other issues in the total amount. But you'll see that there are some in Central Administration which we dealt with already, some in Planning and some in Parks. The Committee very reluctantly recommends that these be put on the reconciliation list. The Committee very strongly recommends that these and other items for Park and Planning come off the reconciliation list. So Councilmember Floreen.



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1 Councilmember Floreen,

2 Thank you. You have a typo on Line 1, 2, 3, 4, 5, Marlene, the Committee does not
3 support the reduction says Ms. Praisner says.

4
5 Council President Praisner,

6 Well, we support taking them but we don't support them in the end.

7
8 Councilmember Floreen,

9 Well, I don't support taking them either.

10
11 Council President Praisner,

12 Okay.

13
14 Councilmember Floreen,

15 But, that's, I think that's what Marlene meant.

16
17 Council President Praisner,

18 Right. Okay, if --.

19
20 Councilmember Floreen,

21 Theirs is a rather academic.

22
23 Council President Praisner,

24 Yeah. I see no lights. So the Committee's recommendations stand. I want to thank Park
25 and Planning Commission staff and the Commission for the very painful process of
26 identifying these reductions, and I think we do need to look at the issue of what's in the
27 special funds and what's not as well as the enterprise funds issues in the, over the
28 coming year, what's development, what's development funded and what's not. But that
29 issue is for another day. Thank you all very much. We are adjourned.

30
31 Royce Hanson,

32 Thank you.